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International Labour Conference

TWENTY-THIRD SESSION

GENEVA, 1937

Reduction of Hours of Work in the Textile Industry

Item II on the Agenda

GENEVA

International Labour Office

1937

Imp. de la Tribune de Geneve.

CONTENTS

INTRODUCTION

The question of the reduction of hours of work in the textile industry appears on the Agenda of the Twenty-third Session of the International Labour Conference as a result of a decision taken by the Conference at its Twentieth Session in June 1936. At that Session the Conference had before it a Grey-Blue Report prepared by the International Labour Office, in accordance with the directions of the Governing Body, in such a form as to enable the Conference either to follow the usual double-discussion procedure or, if it so desired, to take a final decision on the adoption of a Draft Convention at once. The Conference considered it expedient to follow the usual procedure of double discussion, decided by 71 votes to 29 to place the question on the Agenda of the Session of the Conference to be held in 1937, and directed the Office to frame and address to Governments a Questionnaire the replies to which would provide the basis for a report to be submitted to the Conference for the purpose of the second discussion. Pending this decision by the full Conference, however, the Committee set up by the Conference to consider the question of the reduction of hours of work in the textile industry had proceeded with the consideration of the proposals for a Draft Convention included in the Office's Report, and these proposals as revised by the Committee (referred to in this report as the "draft text of 1936"), together with the discussions of the Committee, furnished the basis on which the Office framed the Questionnaire addressed to the Governments.

The Questionnaire was despatched to Governments towards the end of July 1936 with a request that replies to it should be furnished not later than 15 November 1936. In fact, however, most of the replies were not received until long after this date, and the preparation of this Report has consequently been delayed. By the date at which the Report was made up, replies had been received from the Governments of the following countries: Australia (States of New South Wales, Queensland, Tasmania, Victoria and Western Australia), Austria, Belgium, Bulgaria, Canada (Provinces of Alberta, British Columbia, Manitoba, Ontario, Quebec and Saskatche-

wan), Chile, China, Czechoslovakia, Denmark, Egypt, Estonia, Finland, France, Greece, Hungary, India, Irish Free State, Japan, the Netherlands, Norway, Poland, Sweden, Switzerland, the United States of America, the Union of South Africa, and Yugoslavia.

The replies received from these Governments are reproduced in Chapter I of the Report. Chapter II gives a general survey of the replies, and also gives, in relation to the several replies, the draft text of 1936. Chapter III gives the conclusions which the Office has drawn from the additional information available since the discussions at the Conference in 1936 and explains the proposals which it submits to the Twenty-third Session of the Conference as a basis for the second stage of the consideration of the question. The text of these proposals will be found at the end of the volume.

It should be added that the Twentieth Session of the Conference also adopted a resolution suggesting the convening of a tripartite conference to consider all those aspects of the textile industry which directly or indirectly may have a bearing on the improvement of social conditions in the industry. The Governing Body of the International Labour Office decided to give effect to this resolution and the Conference will take place in Washington, D.C., in April 1937. It is to this Conference that reference is made in the replies of certain Governments to the Questionnaire.

Geneva, *April* 1937.

CHAPTER I

REPLIES OF THE GOVERNMENTS TO THE QUESTIONNAIRE

The Governments of the following countries did not furnish detailed replies to the Questionnaire: Australia (States of New South Wales, Victoria and Western Australia), Austria, Bulgaria, Canada (Provinces of Alberta, British Columbia, Manitoba and Saskatchewan), China, Egypt, Estonia, Finland, Greece, Hungary, India, Irish Free State, Japan, the Netherlands, Sweden and Yugoslavia.

The general statements made by these Governments are reproduced below.

Australia

New South Wales

The policy adopted by the Government of New South Wales on the question of the introduction of the forty-hour week has been conveyed to the Commonwealth Government in connection with the general Convention adopting the principle of the forty-hour week. The purport of the communication was that New South Wales was prepared to co-operate in relation to the Convention, provided that the action contemplated takes the form of a competent inquiry (with assistance from trained economists) into the whole ramifications of the question, and that the matter of implementing the findings and recommendations of this inquiry is left to the discretion of industrial tribunals charged with the responsibility of regulating conditions of employment.

At the Conference of Commonwealth and State Ministers held in Adelaide last August the policy of the New South Wales Government was pronounced by the Acting Premier (Mr. Bruxner) who said:

> So far as New South Wales is concerned we feel that the fixation of hours, together with wages and other conditions surrounding our industries in which employees work, is one for the tribunals which deal with these particular questions. The Industrial Commission is clothed with the authority and power to deal with the hours question. We consider that any suggestion for the universal adoption of a forty-hour week for the whole of the industries in Australia is one which can be looked at only from the point of view of the Commonwealth as a whole and after very closest scrutiny as to its application to some industries.
>
> In regard to the primary industries, nobody so far has suggested that we should limit the hours of work of the farmer

or the man who works with him. This is one of the questions which were very hard to understand — that those engaged in our great primary industries and those engaged with them are unable to get a fixation of working hours and conditions. Everybody realises this is due to the fact that much of the produce of primary producers must be sold in the world's markets and in competition with other countries whose working conditions might differ greatly from ours . . . . I think that before a proposal of this kind can be accepted it will require the closest scrutiny and it must be dealt with from a Commonwealth point of view. I do not think that any State will contemplate introducing a shorter working week without knowing what their neighbours are doing. My view is that Australia cannot easily adopt this principle without knowing what position it will place her in as against other countries which work under different conditions . . . So far as New South Wales is concerned we are satisfied to leave these matters to our industrial tribunals. We are quite ready to give our assistance to facilitate a thorough investigation into the proposal of a shorter working week with a view to finding out what effect it would have particularly on those industries on which this country largely depends — the primary industries.

The textile industry in New South Wales, in common with that of other States, is industrially regulated by awards of the Commonwealth Court of Conciliation and Arbitration. These awards operate in the worsted, cotton, and knitting sections of the industry. The normal working week period is fixed by the Federal awards at forty-four hours. It is estimated that these awards cover about 85 per cent. of the employees engaged in the industry in New South Wales. The balance of the employees are covered by awards of State tribunals which prescribe a working week of forty-four hours.

The Australian Textile Workers Union has recently served claims upon employers for a new award. Among the improved conditions sought is that of a thirty-hour week. It is understood, however, that the immediate objective of the Textile Union is a forty-hour week. On the other hand the employers have served counter claims for a forty-four hour week in the combing, spinning, weaving, dyeing, and finishing sections of the industry and a forty-five hour week in the knitting section. A compulsory conference between the parties will be held about next November, and if an agreement is not arrived at, the question of the working week, together with the other claims in dispute, will be considered by the Commonwealth Arbitration Court. The question of hours in this industry may thus become a test case for other industries as well as that of the textile industry.

Victoria

Hours of work, conditions of employment and other matters pertaining to the textile industry in Victoria are governed by three separate Wages Boards, viz., the Knitting Trade Board, the Woollen and Cotton Trade Board and the Cordage Board.

The question of the introduction of a uniform forty-hour working week in industry was discussed at a recent Conference of Premiers held in Adelaide, but it was not possible to obtain unanimity in the matter.

Western Australia

Unfortunately, this State has very few textile works as defined at page 29 of the booklet[1]. Its only woollen mills are at Albany, and the employees there are working under a Federal Award which prescribes a forty-four hour working week. The Fremantle Rope Works has nothing to do with "retting" of the flax or hemp, and is therefore excluded from the Draft Convention, vide Clause 3 (*d*) of the Draft at page 30 of the booklet[1]. Hosiery manufacture, which is carried on by a few establishments in Perth, is covered by an Award of the State Court of Arbitration, which prescribes a forty-four hour working week.

Under these circumstances, it is felt that no good purpose would be served by this State submitting a detailed answer to the Questionnaire.

This Government, therefore, desires to state generally that it supports the proposal for a forty-hour working week, provided it is introduced on an All-Australia basis, and considers that the details as to the method of working the shorter week should be left to the competent industrial authority to determine, having regard to the particular requirements of each industry.

Austria

The question of the reduction of hours of work in the textile industry is in substance the question of the introduction of the forty-hour working week, on which the Government has already expressed its views. The Government need therefore do no more than refer to the views expressed on earlier occasions, and maintains the same waiting attitude in respect of the reduction of hours of work in the textile industry as it has already adopted in respect of the problem of the reduction of hours of work in general. It therefore refrains from replying to the Questionnaire in detail.

Bulgaria

The Bulgarian textile industry is not technically well enough equipped to enable the workers to give a sufficient output if hours of work were reduced. Moreover, a reduction of hours of work would result in a reduction of earnings below a minimum living wage. The Bulgarian Government is therefore unable to agree to a Convention for the reduction of hours of work in this industry.

Canada

Province of Alberta

In respect of reduction of hours of work in the textile industry, while there are no establishments following this class of work within the Province at the present time, under the Hours of Work Act the Board of Industrial Relations is given authority to establish hours of employment in conformity with the provision in the Questionnaire.

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[1] The reference is to the draft text of 1936. It should be added that the statement that the effect of the passage cited is to exclude rope works is due to a misapprehension.

Province of British Columbia

The Government endorse the Convention proposed.

While the textile industry is not a factor in the industrial life of this Province, the Government do express their endorsation in principle as being in line with legislation already enacted in British Columbia.

Province of Manitoba

In so far as Manitoba is concerned, there is no textile industry of any note, with the exception of one small wool weaving factory which is operated by a family.

Province of Saskatchewan

Owing to the fact that there are no textile industries in the Province of Saskatchewan this Government is of the opinion that this Questionnaire should be left to those provinces where such industries exist.

CHINA

The Government is not prepared to express its views on the Questionnaire on the reduction of hours of work in the textile industry.

EGYPT

The competent Department of the Government, while approving the principle of a reduction of hours of work in all branches of industry, is not in a position at the present time to recommend a reduction of hours of work in the textile industry in Egypt to the extent proposed. It considers it preferable therefore not to enter into detailed discussion of the question.

ESTONIA

The textile industry in Estonia is not sufficiently modernised and in addition the innumerable exchange restrictions and tariff barriers have seriously diminished its power to export its products. As a result there has been a permanent fall in exports.

In these circumstances it does not appear possible to impose on the Estonian textile industry the extra burden which would be the inevitable consequence of the reduction of hours of work.

Having regard to these considerations, the Government sees no sufficient reason for modifying the opinion expressed in its reply to the Questionnaire on the reduction of hours of work of 1933, when it opposed the adoption of a Draft Convention and expressed its preference for a Recommendation.

As the Questionnaire contemplates only the adoption of a Draft Convention and is drawn up accordingly, the Government does not consider it necessary to reply in detail to the Questionnaire.

FINLAND

On various occasions in recent years the Government has given the reasons for which it does not consider the introduction of the Forty-Hour Week to be possible in Finland at present. The

Government therefore refers to these previous replies and adds the following:

The unemployment situation has steadily improved to such an extent that the total number of unemployed, which at the end of October 1935 was about 10,000, had fallen by the corresponding date in 1936 to 3,000. Of these 3,000 persons about 2,000 have been engaged on unemployment relief works and only about 1,000 have remained without work. It should also be added that since the beginning of November all State public works have been carried out at normal rates of wages. The position is in fact even better than in what are called normal times and in many cases a shortage of skilled labour is making itself felt. In these circumstances the Government has been unable to give its support at the International Labour Conference to the reduction of hours of work as a measure to be applied generally or to particular branches of industry. Further, inasmuch as the Government's endeavours are directed to improving the standard of living of the workers and a reduction of hours of work might entail a lowering of wages, there is no justification, from this point of view either, for a reduction of hours of work.

As regards the textile industry in particular, this industry is not of the first importance in Finland. It provides employment for only 13-14,000 persons out of a total of about 250,000 industrial workers. There is no unemployment, but during the depression hours of work, in this as in many other industries, were reduced owing to the fall in the demand for its products. In 1928 the hours of work were 94.8 per fortnight and this figure fell to 88 in 1929, to 83 in 1930 and to 81.3 in 1931. Since a revival in trade has been effected hours of work have increased, rising to 86.2 hours a fortnight in 1932, to 89.4 in 1933 and to 94.2 in 1934. Overtime, which is included in these figures, has risen from 0.9 hours per fortnight in 1931 to 3 hours in 1934. From these statistical data it will be seen that in Finland the shorter working hours which accompanied the depression no longer prevail and that conditions in the textile industry are normal as regards hours of work.

The situation in Finland is entirely different from that in certain other countries where the persistence of unemployment may call for a permanent reduction in hours of work. Consequently there is not at present sufficient reason for introducing the proposed reduction of hours of work in the textile industry in Finland to forty a week. The Government therefore does not deem it necessary to give a detailed reply to the Questionnaire.

GREECE

The Government recognises the great value of the proposed reform. Inasmuch as the reform concerns an industry in which women and children are employed to a very large extent any improvement in working conditions, and consequently living conditions, would be specially desirable. Nevertheless, while recognising this fact and being keenly desirous of establishing just and fair conditions of work and also of collaborating in the efforts of the International Labour Organisation to secure uniformity in the conditions of work in the various countries, the Government cannot give its support to the reform.

The conditions in which the textile industry in Greece has to operate and develop would render the reduction of hours of work impracticable. The lack of raw materials and the use on a very large scale of reworked materials, the maintenance of supplies of which has been rendered more difficult by the shortage of money, are the principal obstacles to the reduction of hours of work in the industry in question.

The Government regrets that it has not been able to introduce the 8-hour day in all branches of the industry. This is the only case in which the 8-hour Convention is not applied, the difficulties due to industrial requirements having been such that the Government has been unable to give effect to its intention in spite of its keen desire to do so. It hopes, however, shortly to be able to apply the provisions of that Convention to the textile industry.

The latest action taken by the Government, in the form of two collective agreements concerning minimum wages, has as a result of the increase in wages seriously affected the cost of production in this branch of industry and if further charges are imposed it is doubtful if the industry will be able to carry on. The Government could not contemplate allowing such a situation to arise in view of the fact that over 14,000 workers are dependent on this industry for their livelihood.

The Government therefore considers that it should not reply in detail to the Questionnaire.

Hungary

In view of the difficulties of the economic situation, the Government is not in a position to give a reply on the substance of the question of the reduction of hours of work in the textile industry. The departmental services concerned are at the present time engaged in preparations for the general introduction of the 48-hour week. In these circumstances discussion of the 40-hour working week would be merely academic.

India

The compulsory reduction of hours of work in the textile industry in India to forty a week is impracticable. The attitude of the Government of India towards the question of the adoption of the forty-hour week in industries was explained in their reply to the Questionnaires relating to the reduction of hours of work in public works, the building and civil engineering industry, iron and steel works and coal mines. For convenience the observations are reproduced below :

> Generally speaking, the Indian worker cannot produce sufficient to secure an adequate living in the time which it is proposed to allow.
>
> Viewed from the wider world aspects, the Government of India consider that the policy underlying the proposals is unsound. The mere spreading of work by reducing hours in differing degrees, regulated according to the degree of unemployment, might be useful in certain countries as a means of absorbing a number of the unemployed. But a big reduction on a general scale to a uniform level, selected without regard to national conditions, would involve a reduction in production

for a considerable period and a consequent reduction in the standard of living.

The application of the principles proposed to individual industries in the manner contemplated does not diminish the difficulties. For as the community in general will not be willing or able to pay an increased price for the products of the particular industries selected, and as an increased number of workers will be required to produce those products the standard of living in these industries can only be maintained by the aid of subsidies from the State. The grant of such subsidies to workers in individual industries in order to secure for them a lower level of hours than others have to work would be wrong in principle and the grant of subsidies to any large number of industries would be impossible.

In the circumstances the Government of India refrain from replying to the Questionnaire in detail.

IRISH FREE STATE

The Government of Saorstát Eireann note with interest the arrangements for the holding in Washington of a tripartite technical Conference on conditions of work in the textile industry.

In this connection attention is drawn to the statement of the Saorstát Government Delegate at the Twentieth Session of the International Labour Conference indicating that the Government are in favour of the principle of reduction of hours of work, and explaining that under Section 52 of the Conditions of Employment Act, 1936, the Minister for Industry and Commerce, after consultation with representatives of employers and workers, is empowered to make Regulations fixing in such manner as he may think fit the hours of work in respect of any form of industrial work for all or any classes of workers engaged thereon. Furthermore, whenever the Minister so fixes hours of work, he may by the same Regulations make such provision as may be necessary or proper for securing that the average weekly earnings payable in a normal full working week to any person whose hours of work are reduced by such Regulations shall not be reduced merely because of such reduction in working hours.

It should be added that the Government are of opinion that the results of the technical tripartite conference should form an invaluable contribution to the study of the reduction of hours of work in the textile industry. The Government would prefer, therefore, pending further experience of the working of the Conditions of Employment Act and consideration of the Report of the technical conference, not to reply in detail to the Questionnaire.

JAPAN

Although the Government considers in principle that the reduction of hours of work in the textile industry is appropriate, in view of the fact that the eight-hour day Convention is not yet enforced in Japan it is somewhat difficult, in relation with other industries, to enforce the forty-hour week in the textile industry. Consequently the Government is not in a position to express an opinion on the detailed matters mentioned in the Questionnaire

The Netherlands

The Government has on many occasions, the most recent being its reply to Questionnaire III on the Reduction of Hours of Work in Public Works (Twentieth Session of the International Labour Conference), set out its objections to the compulsory reduction of hours of work by legislation, especially if, in accordance with the principle laid down in the Forty-Hour Week Convention, 1935, the reduction must be accompanied by the maintenance of the standard of living of the workers.

For the reasons then given the Government remains of the opinion that in view of the increase in the costs of production which would result the proposed measure would not bring about a reduction in unemployment.

Since it finds itself obliged to oppose the introduction of a forty-hour week by legislation, the Government considers it unnecessary to reply in detail to the Questionnaire.

Sweden

In its reply of 20 January 1936 to the Questionnaires concerning the reduction of hours of work in public works, the building and civil engineering industry, iron and steel works and coal mines, the Swedish Government emphasised the fact that, apart from any question of principle, there was no occasion at that time in Sweden to reduce hours of work as a means of remedying unemployment, having regard to the situation in the labour market. There has been no recent change in the economic position in Sweden which would create conditions more favourable to the general adoption of the 40-hour week. Indeed, in view of the marked improvement in the labour market in Sweden the contrary might be said to be the case.

Conditions in the textile industry, so far as Sweden is concerned, do not appear to be in any respect specially favourable for the reduction of hours of work. The textile industry has been able to maintain employment at a fairly high level throughout the period of the depression and there is no serious unemployment in the industry at the present time.

It should be observed in this connection that the textile industry in Sweden is very sensitive to competition from other countries, including certain countries which do not belong to the International Labour Organisation.

It follows that the conditions which would favour a limitation of hours of work in the textile industry to forty a week do not at present prevail in Sweden. The Government therefore considers that there is no occasion for it to reply in detail to the Questionnaire concerning a reduction of hours of work in the textile industry.

Yugoslavia

Maintaining the attitude it took up at the time of the vote on the Convention on the principle of the Forty-Hour Week, the Government replies to the Questionnaire on the reduction of hours of work in the textile industry as follows.

The textile industry is one of the branches of industry in Yugoslavia which is steadily developing. This fact is most clearly shown by the increase in the number of workers employed in this branch of industry. According to the annual returns of insured

persons by the Central Workers' Insurance Office, the number of workers employed in the textile industry was 44,558 on 30 June 1935 as against 42,202 in 1934 and 32,818 in 1933. The number of workers employed in July 1936 was 50,867. Consequently the state of the labour market in Yugoslavia does not necessitate the introduction of a shorter working week considered as a remedy for unemployment. In this respect the economic conditions play a decisive part.

Further, it must be emphasised that the textile industry in Yugoslavia is still in course of rationalisation. The capital necessary for the installation of modern machines is not available. For this reason labour is a predominant factor in production. A reduction of hours of work might therefore result in a diminution of production and this in turn might have the effect of creating unemployment.

Finally, it will be difficult to devise the necessary safeguards to prevent employers from reducing wages in the event of a change from the present working week of forty-eight hours, since employers would inevitably try to offset by a reduction in wages the increase in costs of production due to the reduction of hours of work.

For the reasons given above the Government cannot reply in favour of the adoption of a Convention to reduce hours of work in the textile industry.

* * *

Detailed replies to the Questionnaire were furnished by the Governments of the following countries : Australia (States of Queensland and Tasmania), Belgium, Canada (Provinces of Ontario and Quebec), Chile, Czechoslovakia, Denmark, France, Norway, Poland, Switzerland, the United States of America, and the Union of South Africa. The replies of these Governments, subdivided according to the subject-matter of the various questions, are reproduced below.

PRELIMINARY QUESTION

1. Do you consider that the International Labour Conference should adopt a single Draft Convention covering employment in textile works of all kinds ?

If you consider that the Conference should adopt a series of Draft Conventions, each relating to a particular kind or kinds of textile works or of employment, please give your views as to the scope of each of the proposed Draft Conventions, indicating how the scope is to be defined in each case.

Please indicate also, in your replies to the following questions, the special modifications of the draft text of 1936 which in your view would be required in each of the proposed Draft Conventions.

Australia

Queensland

As a general principle, the Queensland Government favours the adoption of a shorter working week, but considers that its practical

application should be the subject of uniform action throughout the Commonwealth.

1. The reply is in the affirmative.

Tasmania

1. The Government concurs with the proposal to adopt a single Draft Convention covering employment in textile works of all kinds.

BELGIUM

1. The reply is in the affirmative.

CANADA

Province of Ontario

1. The reply is in the affirmative.

Province of Quebec

1. The Government is in favour of a single Draft Convention applying to textile works of all kinds.

CHILE

1. The reply is in the affirmative.

CZECHOSLOVAKIA

1. The Government considers that the International Labour Conference should adopt a single Draft Convention covering employment in textile works of all kinds. The Czechoslovak Republic could ratify such a Convention, however, only on condition that it was simultaneously ratified by all the European and extra-European countries which occupy an important position in the textile industry.

DENMARK

1. The reply is in the affirmative.

FRANCE

1. The Government considers it desirable that the International Labour Conference should adopt a single Draft Convention covering employment in textile works of all kinds.

NORWAY

1. The reply is in the affirmative.

POLAND

1. The reply is in the affirmative.

SWITZERLAND

Introductory remarks. — Switzerland's views on the question of the reduction of hours of work are well known. Attention has already been called repeatedly to the special conditions of the country,

which is highly industrialised and has no direct access to the sea. The population cannot live without export trade ; on the other hand, the greater part of the raw materials and semi-manufactured goods required by its industries have to be imported. Further, the standard of living and wages are in general at a high level. It is now established that the reduction of hours of work entails an increase in costs of production and cannot be effected without a more or less burdensome readjustment of wages. This being so, Switzerland is obliged to be very circumspect in its approach to this question lest it should endanger its power to compete on the international market. The considerations that have dictated prudence in regard to hours of work still retain their full weight despite the devaluation which the country has had to carry out. It is not possible now, any more than it has been hitherto, for the country to join in the movement towards the introduction of the forty-hour week : in any event, it would be impossible for the country to do so until the universal and effective reduction of hours of work could be counted on as certain. For these reasons Parliament, endorsing proposals made by the Federal Council, decided during its session of June 1936 not to ratify either the general Forty-Hour Week Convention or the Reduction of Hours of Work (Glass-Bottle Works) Convention (the Reduction of Hours of Work (Public Works) Convention has not yet been submitted to Parliament).

The considerations re-stated above do not, however, prevent Switzerland from contributing to the study of the problem, and it is with a view to giving its assistance for this purpose and subject to the reservations already expressed that the Government replies to the Questionnaire as follows.

1. Subject to what has been said in the Introductory Remarks, the Government considers that, for the reasons given by the Office in the commentary on the Questionnaire, a single Convention covering the whole of the textile industry is preferable to a series of Conventions each applying to a single branch of the industry. There would be difficulties in delimiting the scope of the several Conventions, and working conditions are in fact sufficiently alike in the various branches to enable a single Convention to be framed.

Union of South Africa

1. If the objective of the proposed Draft Convention is the *ultimate* adoption of a forty-hour week, then the answer is in the affirmative, but the Union Government wishes to make it clear that it will not be in a position to contemplate ratification for some considerable time to come and certainly not until the more important industrial countries have adopted the Convention.

United States of America

Without prejudice to the full consideration of all means for advancing the improvement of conditions in the textile industry that may emerge from the deliberations of the April Tripartite Conference, the Government submits the following answers on the specific items included in the Questionnaire.

1. The reply is in the affirmative.

SCOPE OF THE DRAFT CONVENTION

(a) As regards the Works affected

2. Do you approve of defining the scope of the proposed Draft Convention as regards the works affected on the general lines of Article 1 of the draft text of 1936 ?

3. Do you propose any amendments to the text of this Article ?

If so, please indicate the nature of the amendments and the reasons therefor.

4. In particular, do you consider that the proposed Draft Convention should cover works, or branches thereof, engaged in the chemical production of artificial silk or other synthetic fibre ?

If the reply is in the affirmative, please indicate what special provisions should in your view be included in the proposed Draft Convention so as to take account of the special organisation of the work in this form of production.

Australia

Queensland

2. The reply is in the affirmative.
3. The reply is in the negative.
4. The reply is in the affirmative.

Tasmania

2. The reply is in the affirmative.
3. The reply is in the negative.
4. The reply is in the affirmative.

Belgium

2. The reply is in the affirmative.
3. The reply is in the negative.
4. The reply is in the affirmative.

Canada

Province of Ontario

2. The reply is in the affirmative.
3. The reply is in the negative.
4. The reply is in the negative.

Province of Quebec

2. The reply is in the affirmative.

3. The reply is in the affirmative.

4. The reply is in the affirmative for all works and branches thereof.

Chile

2. The reply is in the affirmative.

3. The reply is in the negative.

4. No. The exclusion effected by paragraph 7 of Article 1 of the draft text of 1936 is desirable.

Czechoslovakia

2. The Government considers that the proposed Draft Convention should define the works to which it would apply on the lines of Article 1 of the draft text of 1936.

3. The reply is in the negative.

4. The Government recommends that the proposed Draft Convention should not apply to works engaged in the production of rayon except to the extent provided for in Article 1 (3) of the draft text of 1936 ; in other words, that the Draft Convention should provide that a works engaged in rayon production is to be deemed to be a textile works only as regards the operations which immediately succeed the chemical production of the thread.

Denmark

2. Yes ; but the chemical treatment of cellulose ought certainly to be covered by the Convention.

3. No. See, however, the reply to Question 2.

4. The reply is in the affirmative.

France

2. The reply is in the affirmative.

3. If it were taken quite literally paragraph 3 of Article 1 of the draft text of 1936, which reads : " The series of operations upon which a works must be wholly or mainly engaged to constitute it a textile works begins . . . . ", would mean that for a works to come under the Convention it would have to include the whole of the series of operations delimited in paragraphs 3, 4 and 5. Evidently this is not the intention. It would therefore appear to be necessary to modify the drafting so as to express the intention exactly. The following redraft is suggested for this purpose :

> " The series of operations referred to in the preceding paragraph in one or more of which a works must be wholly or mainly engaged to constitute it a textile works begins . . . . "

4. The Government considers that the proposed Draft Convention should cover works or branches thereof engaged in the chemical production of artificial silk or other synthetic fibre.

The production of such fibres is in general carried on in the same establishment as that in which the thread is subsequently dealt with by operations which are textile operations strictly so-called (reeling, drawing, twisting, bleaching, dyeing, etc.) These operations are closely connected with the chemical production of thread and it would therefore be in the normal course of things to bring these two branches of manufacture in the same works, even though they are different in character, under the same Convention — that which deals with the textile product obtained.

Moreover, it is the textile branch of the works which employs much the larger proportion of the staff (the proportion appears to be on the average at least two-thirds of the whole of the staff of the works).

Undertakings engaged solely in the chemical production of synthetic fibre (supposing that such undertakings do exist) would be subject to the same regulations as the corresponding branches of mixed undertakings, and the latter would therefore not be placed at a disadvantage as regards conditions of work.

In order to extend the Draft Convention to works or branches thereof engaged in the chemical production of artificial silk or other artificial fibre, it would suffice to delete from the draft text of 1936 paragraph 7, which explicitly excludes such production.

As a consequential amendment clause (e) of paragraph 3 might be modified as follows:

> " (*e*) In the case of artificial silk or other synthetic fibre with the reception of the raw material for manufacture."

In addition, to the extent that chemical production, unlike textile operations properly so-called, must be regarded as necessarily continuous in character, the organisation of the work in accordance with the system of four 8-hour shifts should be expressly provided for by the addition to Article 3 of the usual provision dealing with work organised on this basis.

As regards the chemical production of artificial silk from viscose (which is at present virtually the only production of this kind which needs to be considered in France) the facts of the situation in the French factories are as follows. Manufacture is *normally* continuous for the operations connected with the preparation of the viscose, the spinning, washing and drying. It is not that the manufacture of the viscose fibre is in itself a continuous process; it is in fact carried out by a series of several operations some of which are separated by a phase of "maturing", but all these operations form part of a strictly limited cycle any interruption of which would result in serious wastage owing to the instability of the products. Thus, so soon as the viscose has reached the optimum stage of maturing it must be spun within a very short period. Again, the necessity for spinning without any interruption results from the fact that if a spinning machine is stopped all the viscose remaining in the tubes and pumps feeding the machine inevitably undergoes a rapid change and this may mean that the silk produced will be spotty and that some of the threads will be weaker because they have been produced from viscose the maturing of which had gone too far. Moreover, the acid bath in which

the silk threads coagulate after coming from the spinning machines may undergo a change during a stoppage of the machine.

Since the spinning must be carried on continuously, it is essential that there should always be a supply of viscose ready to be used, which entails that the manufacture of the viscose must be continuous.

The operations of washing and drying which come after the spinning must also be carried out without delay, as the thread does not become stable until after these two operations.

These are in substance the explanations furnished by manufacturers to justify continuous working in the manufacture of threads from a viscose basis.

As regards the manufacture of fibre by the cellulose acetate process, in the only undertaking in which this industry is carried on in France the process of manufacture is continuous only up to and including the spinning.

Apart from providing for the organisation of the work on a four 8-hour shift system owing to the continuous character of the manufacture of synthetic fibre, the inclusion of this branch of manufacture within the scope of the Draft Convention would not seem to raise any other special question.

Norway

2. The reply is in the affirmative.

3. The reply is in the negative.

4. The reply is in the negative.

Poland

2. The reply is in the affirmative.

3. (No reply is given).

4. The reply is in the negative.

Switzerland

2. The reply is in the affirmative.

3. The reply is in the affirmative.

Paragraph 3 (*c*) : In the case of schappe silk the series of operations should begin with the steeping.

Paragraph 3 (*e*) : It would hardly be possible to determine the point of separation between "the chemical production of the thread" and the operation immediately succeeding, since in the newer processes the various operations are very closely linked with one another.

Paragraph 3 (*f*) : The "reception of the rags in the works" should be included.

Paragraph 3 (*g*) : It would be desirable to make separate provision for jute; failing this, it might be mentioned in clause (*d*), with an indication of the operation regarded as the point of departure.

Paragraph 4 : For the sake of greater clarity it should be specifically stated that the " operations of finishing the products " are included.

Paragraph 5 *(a)* : In the case of "hosiery" the Convention, as the text now stands, would not be applicable to works making up garments or other articles from knitted fabric which do not manufacture the knitted fabric themselves. These works would therefore have an advantage over hosiery manufacturers who make up garments or other articles from knitted fabric produced in the same works. It is questionable whether this differentiation can be justified.

Paragraph 5 *(b)* : The principle seems sound, but it is difficult to think of concrete cases. Those which come to mind at once relate to hosiery manufacture and are consequently already covered by clause *(a)*.

Paragraph 6 : The question may arise as to whether both the conditions set out in clauses *(a)* and *(b)* must be fulfilled for the Convention to be applicable, or whether fulfilment of one alone would suffice. It must no doubt be admitted that fulfilment of both conditions is necessary.

In practice there would be all sorts of difficulties if the line of demarcation were to pass through a single works.

4. The reply is in the affirmative, as is evident from the reply given to Question 3. The inclusion of the chemical production of synthetic fibres would mean that the Convention should contain provisions concerning hours of work on continuous processes. Given the reduction in hours of work which is the purpose of the Convention, this would mean fixing a weekly average of forty-two hours for continuous processes. Reference may be made in this connection to earlier Draft Conventions.

Union of South Africa

2. The reply is in the affirmative.

3. The reply is in the negative.

4. No comment. The matter is not, at present, of practical importance so far as the Union of South Africa is concerned.

United States of America

2. The reply is in the affirmative.

3. The scope of the Convention will not be entirely clear in terms of the use of words in the United States. If Article 1, paragraph 2, is amended to read " any woven, *piled*, knitted or lacework fabric ", it will clearly include carpets and rugs which are not always regarded as comprehended within the phrase " woven fabric ".

4. The reply is in the negative.

(b) As regards the Persons affected

5. (i) Do you consider that the competent authority in each country should be authorised to exempt persons employed in family undertakings ?

(ii) Do you approve of the terms of Article 2 (*a*) of the draft text of 1936 ?

If the reply is in the negative, please indicate the modifications you propose.

6. (i) Do you consider that the competent authority in each country should be authorised to exempt persons with managerial responsibilities ?

(ii) Do you approve of the terms of Article 2 (*b*) of the draft text of 1936 ?

If the reply is in the negative, please indicate the modifications you propose.

AUSTRALIA

Queensland

5. (i) and (ii) The replies are in the affirmative.

6. (i) and (ii) The replies are in the affirmative.

Tasmania

5. (i) and (ii) The replies are in the affirmative.

6. (i) and (ii) The replies are in the affirmative.

BELGIUM

5. (i) and (ii) The replies are in the affirmative.

6. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

5. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

6. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Province of Quebec

5. (i) and (ii) The replies are in the affirmative.

6. (i) and (ii) The replies are in the affirmative.

CHILE

5. (i) Yes, because in view of the conditions of work and the scale of production the matter is not of importance either to industry in general or to the persons concerned.
(ii) The reply is in the affirmative.

6. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Czechoslovakia

5. The Government considers that the question of allowing exemption from the application of the Draft Convention of persons employed in family undertakings should be dealt with as provided in Article 2 (*a*) of the draft text of 1936.

6. (i) The Government considers that the competent authority in each country should be authorised to exempt from the application of the Draft Convention persons holding positions of management who do not perform manual work.

(ii) No; the Government considers that it should also be possible to exempt from the application of the Convention persons holding supervisory positions who do not perform manual work, together with watchmen and other persons engaged for work which is irregular or is not fatiguing.

Denmark

5. (i) and (ii) The replies are in the affirmative.

6. (i) and (ii) The replies are in the affirmative.

France

5. The Government considers that the competent authority in each country should be authorised to exempt from the application of the Draft Convention persons employed in family undertakings. Nevertheless, it appears to the Government that there is a middle course between simply subjecting persons employed in these undertakings to the Draft Convention and completely excluding them from it. This middle course would consist in authorising the application to such persons of a régime which would be equivalent to the general régime but more flexible and more easily supervised, the appropriate measures of detail being determined by the competent authority in each country. It would be possible, for example, for the maximum period between the beginning and the ending of the day's work to be fixed in such a way as to include intermediate rest periods, so that the daily timetable would not have to specify the particular times at which the rest periods would be taken, though the total time would have to conform to the limits fixed.

The Government therefore considers it desirable, having regard to the difficulties inseparable from the regulation of family workshops, that this third course, namely a system of regulations which would be only an equivalent to that laid down in the Draft Convention, should be expressly provided for in the case of such workshops. It is true that such regulations could always be adopted even if not expressly provided for, but the proposed addition would have the advantage of directing the attention of Members of the Organisation to the possibility, and moreover it might be stipulated in Article 11 that the Members who took this course should be obliged to furnish information on the matter in their annual reports.

In this connection the Government feels obliged to point out that the question of adequate regulation of hours of work in family workshops using machinery in the textile industry has been the subject of special consideration in France in connection with the application to that industry of the forty-hour week. A Bill was in

fact introduced on 1 August 1936, the general purpose of which was to limit hours of work in family undertakings in which the only persons employed are members of the family subject to the authority of the father, the mother or the guardian, when work is carried on therein with the aid of a steam boiler or power-driven machinery.

It is not until after the provisions of the law of 21 June 1936 introducing the forty-hour week in industrial and commercial establishments have been applied to an industry or branch of industry that a special Decree can be issued to limit hours of work in family undertakings in that industry or branch of an industry. The limitation may consist either in the simple extension to such undertakings of the regulations applicable to other establishments in the same industry or in the prohibition of work outside certain hours. The procedure is therefore the reverse of that on which the Draft Convention is based ; under the Draft Convention family undertakings are presumed to be subject to the same regulations as other undertakings unless they are expressly excluded, whereas under the French legislation family undertakings would not be subject to the limitation of hours of work unless and until special Decrees had been issued respecting them. It would seem that the latter procedure is the more appropriate in view of the necessity of providing for certain adaptations, which would probably become the rule, as regards family undertakings.

6. The Government considers that it is inherent in the functions of persons occupying a position of management that they should be excluded without question from the scope of a Convention dealing with hours of work. The only question to be left for decision by the competent authority, after consultation with the organisations of employers and workers concerned, is that of defining as precisely as possible the functions in question. If, however, it should appear inexpedient to adopt a formula different from that which is contained in other Draft Conventions, the Government would not insist on its suggestion being taken into consideration. In any event, however, the Government points out that the phrase " who do not perform manual work " appears to be superfluous, since it adds nothing to, and may indeed detract from, the significance of the word " management ", which is a function that is in itself incompatible with the performance of manual work.

Norway

5. There is no reason to exempt family undertakings from the application of the Convention.

6. Yes. The words : "who do not perform manual work" in Article 2 (*b*) of the draft text of 1936 should be left out.

Poland

5. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

6. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Switzerland

5. The reply is in the affirmative. It is doubtless desirable that the guardian should be regarded as a member of the family only if he is living in the same household.

Swiss factory legislation is not applied to members of the family of the head of the undertaking who work in the undertaking, if no persons outside the family are ever employed. A guardian would not come within this definition. Further, the draft text of 1936 does not go so far as the Swiss legislation as regards the exception of members properly so-called of the family. It might be possible without too great inconvenience to abandon any definition of the family in this case, as in the case of previous Draft Conventions.

6. (i) and (ii) The reply is in the affirmative. The Government of each country should, however, be free to lay down rules for determining what is meant by " position of management ". There may be positions of management not only at the head of a works regarded as a whole, but also at the head of various sections or services.

Union of South Africa

5. (i) The reply is in the affirmative.

(ii) No ; in the application of any law it is essential that the Governmental authority should, within specified limitations, have the unrestricted right to use its own discretion regarding the application. It is the policy in the Union of South Africa to consult the employers' and workers' organisations whenever possible, but it is not always practicable to do so and the competent authority should, therefore, have the right to use its own discretion regarding such consultation.

6. (i) The reply is in the affirmative.

(ii) No ; see answer to Question 5 (ii).

United States of America

5. The Government prefers a Convention which covers family undertakings for the textile industry, but raises no objection so long as the Article provides that the exemptions must be with the specific authorisation by the competent authority in each country.

6. (i) and (ii) The reply is in the affirmative.

DEFINITION OF HOURS OF WORK

7. Do you consider that conditions in the textile industry require any modification of the definition of hours of work hitherto adopted for the purpose of international regulations dealing with hours of work (Article 3 (2) of the draft text of 1936) ?

If so, please indicate the modifications you propose.

Australia

Queensland

7. The reply is in the negative.

Tasmania

7. The reply is in the negative.

Belgium

7. The reply is in the negative.

Canada

Province of Ontario

7. The reply is in the negative.

Province of Quebec

7. The reply is in the affirmative.

Chile

7. The reply is in the negative.

Czechoslovakia

7. The Government is in favour of defining hours of work as in Article 3 (2) of the draft text of 1936.

Denmark

7. The reply is in the negative.

France

7. The reply is in the negative.

Norway

7. The reply is in the negative.

Poland

7. The reply is in the negative.

Switzerland

7. Agreed, subject to the usual reservation that where the circumstances so require the term " at the disposal of the employer " may be given special interpretation as regards the reckoning in the hours of work of the time required for a worker employed outside to get to his work.

Union of South Africa

7. The reply is in the negative.

UNITED STATES OF AMERICA

7. The textile industry does not require a special definition of the hours of work. If the French amendment, as cited on page 20 of the Red Report, is not incorporated, it should be embodied in a Recommendation or interpretation of hours Conventions in general. The use of short routine rest periods is one which develops rapidly, parallel to the development of scientific management which intensifies the effort during periods of production. Under no conditions should this type of rest period be exempted from inclusion within an over-all limitation of hours.

STANDARD FORTY-HOUR WEEK

8. Do you consider that hours of work should be limited to forty per week ?

9. (i) Do you consider that the calculation of hours of work as an average over a period should be permitted in the case of retting operations ?

(ii) If the reply to (i) is in the affirmative, do you approve of the terms of Article 4 (*a*) of the draft text of 1936 ?

If not, please indicate the modifications you propose.

10. Are there any other cases in which you consider averaging should be permitted ?

If so, please indicate the cases and the conditions you propose.

11. (i) Do you consider that any special provision is necessary to deal with cleaning time ?

(ii) Do you approve of the terms of Article 4 (*b*) of the draft text of 1936 ?

If not, please indicate the modifications you propose.

AUSTRALIA

Queensland

8. Yes, provided that the Convention is being universally adopted.

9. (i) and (ii) The replies are in the affirmative.

10. The reply is in the negative.

11. (i) The reply is in the negative.

(ii) The reply is in the affirmative.

Tasmania

8. The reply is in the affirmative.

9. (i) No. Uniform hours suggested, i.e. forty per week.

10. The reply is in the negative.

11. (i) The reply is in the negative.

(ii) No. Uniform hours suggested, i.e. forty per week.

Denmark

8. The reply is in the affirmative.

9. The reply is in the affirmative.

10. The reply is in the negative.

11. (i) and (ii) The replies are in the affirmative.

France

8. The Government considers that the Draft Convention should limit hours of work to forty in the week. If, however, the Convention should extend to the chemical production of synthetic fibre, as is proposed above, it would be necessary to make provision, in respect of the necessarily continuous operations involved in such production, for the application of the system of four shifts of 8 hours with an average of 42 hours' work per week.

9. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

10. The Government considers that the calculation of hours of work as an average should not be permitted in any other cases, except in the event of the inclusion of the necessarily continuous processes in the chemical production of synthetic fibres.

11. (i) The reply is in the affirmative.

(ii) Under this provision time spent in the cleaning of machines when the cleaning is done by the persons operating the machines is excluded from the reckoning of hours of work only in so far as it does not exceed one hour per week. On this point the Government is obliged to call attention to the fact that the French Decree of 17 November 1936 prescribing the methods of application of the forty-hour week to the textile industry gives a wider latitude. Although this Decree also lays down as a general rule a limit of one hour beyond the normal working week as the maximum time to be spent on the cleaning of machines without any obligation to grant compensatory time off, it nevertheless permits the extra time to be extended to *one hour and a half* in the case of machines and frames specified by Ministerial Orders made after consultation with the employers' and workers' organisations concerned. The Decree in fact expressly authorises a maximum of one hour and a half for the cleaning of machines for spinning linen, hemp, jute, ramie and similar fibres and for the cleaning of mule spinning frames in cotton spinning.

There is a similar provision in respect of the oiling of mule spinning frames in wool spinning. This authorises a permanent exception of not more than fifteen minutes in excess of the daily limit, which is equivalent to an hour and a half per week if the forty hours are distributed over six working days and an hour and a quarter if the distribution is over five days.

It should be added that the same provisions were in force under the eight-hour day law.

As these provisions are the result of an agreement between the employers' and workers' organisations, they may be regarded as being in strict conformity with practical requirements, at any rate in the French textile industry.

The question therefore arises whether the corresponding provision which appears in the proposed Draft Convention and which is more restrictive would not give rise to difficulties in respect of ratification later on, not only as regards France but also as regards other countries.

The French Government is therefore of opinion that it would be desirable to reconsider the extent of the exception to be allowed.

Norway

8. The reply is in the affirmative.

9. (i) and (ii) The reply is in the affirmative.

10. The reply is in the negative.

11. (i) The reply is in the negative.
(ii) The reply is in the affirmative.

Poland

8. The reply is in the affirmative.

9. (i) The reply is in the affirmative. (See the next reply.)

10. The calculating of hours of work as an average over a period should be allowed for all the works covered.

11. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Switzerland

8. To conform with the general Convention of 1935, the reply must of course be in the affirmative, but a country which is unable to adhere to that Convention cannot of course bind itself in regard to the question put here. On this point reference is made to the Introductory Remarks. It is quite certain that a forty-hour week, in weaving for example, would result in pressure towards still greater resort to automatic machinery.

It should be pointed out here that services which operate continuously cannot adapt themselves to the forty-hour week. An example of such services, apart from the chemical production of synthetic fibres, is furnished by hydro-electric works belonging to textile works and supplying power to them, though these hydro-electric works might possibly be excepted from the Convention in virtue of Article 1 (8) of the draft text of 1936.

9. The reply is in the affirmative, subject to the reservations of principle set out in the reply to Question 10.

10. It would appear necessary to adopt a flexible system for the arrangement of hours of work and consequently to permit the reckoning of hours of work as an average over a definite period, particularly for the purpose of meeting requirements which are markedly seasonal. It should be left to the national Governments to deal with this matter and, where necessary, to determine either for the whole of the industry or for certain branches of it the cases

in which averaging should be permitted and the limits to be imposed in respect of it. Maxima of forty-eight hours a week and nine hours a day might be fixed.

11. (i) and (ii) If the week is to be forty hours, this concession may be accepted. In fact, it may be presumed that for such work it will also be necessary to make use of the exceptions provided for in Article 5 of the draft text of 1936.

Union of South Africa

8. See reply to Question 1.

9. (i) It is considered that any Convention adopted should lay down simple general principles. All matters of detail should be left to the competent authority and should not be enshrined in the Convention itself.

(ii) No; see answer to Question 9 (i).

10. This should be left to the competent authority.

11. (i) and (ii) See reply to Question 10.

United States of America

8. The reply is in the affirmative.

9. No objection. As a matter of principle, the Government prefers that a maximum period over which averages are to be calculated is to be specified and should be the minimum period required to meet the particular technical problem that leads to the inclusion of a provision for averaging.

10. The reply is in the negative.

11. The terms of Article 4 (*b*) are acceptable.

GENERAL EXCEPTIONS

(*a*) Preparatory, Complementary and Intermittent Work

12. Do you approve of the terms of Article 5 of the draft text of 1936?

If not, please indicate the modifications you propose.

(*b*) Emergencies

13. (i) Do you consider that the conditions in the textile industry require any modification of the provision for emergency overtime hitherto adopted for the purpose of international regulations dealing with hours of work?

(ii) If so, do you approve of the terms of Article 6 of the draft text of 1936?

If the reply is in the negative, please indicate the modifications you propose.

Australia

Queensland

12. The reply is in the affirmative.

13. (i) The reply is in the negative.
(ii) The reply is in the affirmative.

Tasmania

12. No. Uniform hours suggested, i.e. forty per week.

13. (i) The reply is in the negative.
(ii) The reply is in the affirmative.

Belgium

12. The reply is in the affirmative.

13. (i) and (ii) The replies are in the affirmative.

Canada

Province of Ontario

12. The reply is in the affirmative.

13. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Province of Quebec

12. The reply is in the affirmative.

13. (i) The reply is in the affirmative.
(ii) Yes: with the permission of the authorities.

Chile

12. The reply is in the affirmative.

13. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Czechoslovakia

12. The Government approves of the terms of Article 5 of the draft text of 1936.

13. (i) The reply is in the affirmative.

(ii) No; the Government considers that Article 6 of the draft text of 1936 should be completed by a provision allowing the limits of hours of work to be exceeded where necessary to make good the unforeseen absence of one or more persons from a shift.

Denmark

12. The reply is in the affirmative.

13. (i) The reply is in the negative.
(ii) The reply is in the affirmative.

FRANCE

12. The reply is in the affirmative.

13. (i) The reply is in the negative. In any event the practical importance of this exception is small.

NORWAY

12. The reply is in the affirmative.

13. (i) and (ii) The reply is in the affirmative.

POLAND

12. The reply is in the affirmative.

13. (i) The reply is in the negative.

(ii) The text of Article 3 of the Washington Convention (Hours of Work (Industry), 1919) should be reverted to.

SWITZERLAND

12. The reply is in the affirmative.

13. (i) and (ii) The reply is in the affirmative. The terms of Article 6 of the draft text of 1936 can be accepted. The Government points out, however, that the expression " gêne sérieuse " (serious inconvenience) allows too much latitude, so that it might be better perhaps to say " trouble sérieux " (serious disturbance) [1]. The Government adds that the Federal Factory Act requires the employer to notify the competent authority in the locality as soon as possible (at latest on the next working day) of the circumstances which have necessitated emergency overtime, if he has not been able to inform the authority in advance.

UNION OF SOUTH AFRICA

12. No. Reference to organisations of employers and workers concerned should be deleted — vide reply to Question 5 (ii).

13. (i) and (ii) The reply is in the affirmative.

UNITED STATES OF AMERICA

12. There is no objection to Article 5 provided there is a narrow interpretation by the competent authority of the exemptions in paragraph (*a*).

13. Conditions in the textile industry are unusual chiefly with reference to the frequency with which changes in adjustments of the machinery must be made. Whenever an Article is adopted,

[1] The expression used in the English text is " serious interference ", so that the observation of the Swiss Government would appear not to be applicable to the English text.

it should specify either in the Article or in a clear-cut Recommendation that this type of work is not comprehended within the phrase " urgent ". The addition of the words " and unforeseen " does little to clarify the meaning, even if " unforeseen " is changed to " unforeseeable ". The phrase of exemption can only be regarded as satisfactory if it is read in close conjunction with the rest of the Article covering accidents and *force majeure.*

SPECIAL EXCEPTIONS

(a) OVERTIME TO ENSURE CONTINUITY OF OPERATIONS

14. (i) Do you consider that overtime should be allowed when necessary for the completion of an operation or operations which cannot be interrupted without damage to the material worked ?

(ii) If so, do you approve of the terms of Article 7, paragraphs (1) and (2), of the draft text of 1936 ?

If the reply is in the negative, please indicate the modifications you propose.

AUSTRALIA

Queensland

14. (i) and (ii) The replies are in the affirmative.

Tasmania

14. (i) The reply is in the affirmative.

BELGIUM

14. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

14. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Province of Quebec

14. (i) and (ii) The replies are in the affirmative.

CHILE

14. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

CZECHOSLOVAKIA

14. (i) and (ii) The Government considers that the matter should be dealt with as provided in Article 7 (1) and (2) of the draft text of 1936.

Denmark

14. (i) and (ii) The reply is in the affirmative.

France

14. (i) The reply is in the affirmative.

(ii) It should be observed first of all that it is not very clear why Article 5 should be referred to at the beginning of this Article, since it does not appear to be necessary to take into account the combination of the two kinds of exception which this reference implies.

In the French legislation provision is made in two ways concerning the operations with which this Article deals.

(1) An exception may be permitted, in the case of the dyeing, finishing, bleaching and printing of yarn, cloth, etc., to the general prohibition of the organisation of work on a shift or rotation system. This exception is permitted by Ministerial Order, made after consultation with the employers' and workers' organisations concerned, when it is justified by technical reasons. The adoption of the shift or rotation system would enable the work to be organised on a continuous basis so as to meet the technical requirements of these industries where necessary *without recourse to the working of extra hours*.

(2) If an extension of the normal working day of particular persons is required in these industries in exceptional cases which could not be foreseen, then, provided the overtime does not exceed two hours a day, advantage may be taken of the more general exception dealing with "the work of persons engaged on operations based on chemical reactions which for technical reasons cannot be interrupted at will when, by reason of exceptional circumstances, it has not been possible to complete the operations within the prescribed period."

This second exception appears to correspond to the situation dealt with in Article 7 of the draft text of 1936.

It would seem desirable that the drafting of paragraph 1 of this Article should be based on that of the exception mentioned above, which brings out clearly the *exceptional and unforeseeable character* of the overtime in question. If these two conditions do not apply an appropriate method of organising the work which would not involve overtime ought to be adopted, as indicated above.

Norway

14. (i) and (ii) The reply is in the affirmative.

Poland

14. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Switzerland

14. (i) and (ii) The reply is in the affirmative, although such work might be considered to be covered by Article 5, clause *(a)*, of the draft text of 1936.

The terms of Article 7 of the draft text of 1936 can be accepted with the exception of the third paragraph, which provides for an increase in pay of at least 50 per cent. Extra pay is not justified in this case, since the work in question is recognised as indispensable to the normal progress of the manufacturing process.

UNION OF SOUTH AFRICA

14. (i) The reply is in the affirmative.

(ii) No; see replies to Questions 5 (ii) and 9 (i).

UNITED STATES OF AMERICA

14. The exception provided in Article 7, paragraph 1, is adequate, though it would be consistent with American practice to add printing as a specifically named operation.

(b) OVERTIME TO ENSURE FULL-TIME WORKING IN ALL SECTIONS

15. (i) Do you consider that overtime should be allowed on certain operations when necessary to ensure full-time working on subsequent operations ?

(ii) If so, do you approve of the terms of Article 8, paragraphs (1), (2) and (4) of the draft text of 1936 ?

If you do not approve of the terms of these paragraphs in their entirety, please indicate what modifications you propose, in particular in respect of the following points:

(*a*) application by the employer;

(*b*) consultation with employers' and workers' organisations as to granting of allowance;

(*c*) definition of the cases in which overtime is permissible;

(*d*) consultation with employers' and workers' organisations as to amount of overtime allowance;

(*e*) limitation of aggregate amount of overtime permitted;

(*f*) limitation of overtime worked by any individual in any year;

(*g*) limitation of overtime worked by any individual in any week;

(*h*) attachment of conditions to the grant of an allowance.

AUSTRALIA

Queensland

15. (i) and (ii) The replies are in the affirmative.

Tasmania

15. (i) and (ii) The replies are in the affirmative.

BELGIUM

15. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

15. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Province of Quebec

15. (i) and (ii) The replies are in the affirmative.

CHILE

15. (i) The reply is in the affirmative.

(ii) Yes, except as regards the limit to the number of hours of overtime authorised, which might be fixed at 2 hours per day and per person.

CZECHOSLOVAKIA

15. Yes ; the fixing of an allowance of overtime for the purpose indicated in this question should be left to be settled by national laws and regulations.

DENMARK

15. (i) The reply is in the affirmative.

(ii) Yes, it would, however, be reasonable to provide in paragraph 2 for the possibility of the 60 hours being exceeded when technical reasons so require to ensure that the undertaking can be kept in full working.

FRANCE

15. (i) This exception concerns more particularly the preparatory operations. The necessity for resorting to overtime in order to ensure full-time working in all the branches of a works generally indicates a lack of equilibrium between the various branches of production in the works. It is therefore for the employer to take the necessary measures to remedy the situation, if necessary by increasing his plant.

Consequently, if it is considered necessary to maintain the special allowance of overtime provided for in this Article, it would seem to be well to consider the desirability of limiting the period during which this exception would apply to a transitional period to be fixed.

In France, the regulation of hours of work in the textile industry does not allow of this exception, at any rate in the present form. Under the regulations applying the 48-hour week the exceptional cases now under consideration have been dealt with, where necessary, by means of the allowance of overtime for urgent work (exceptional pressure of work). In practice, it would seem that such cases may in fact also arise as a result of occasional dislocation of the normal working rhythm.

The best course would therefore appear to be to combine this exception in the Draft Convention with the succeeding one (overtime

for commercial purposes), the allowance of overtime for the latter being raised in consequence to, say, 75 hours (instead of 60 hours) as in France. This would avoid the possibility of combining the two allowances of 60 hours' overtime. This combination of the two kinds of exception would seem to be all the more justified since in the draft text of 1936 the same procedure is prescribed as regards authorisation.

(ii) The reply is in the affirmative, subject to the remarks made above.

Norway

15. (i) and (ii) The reply is in the affirmative.

Poland

15. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative except as regards the phrase "after consultation with the organisations of employers and workers concerned where such exist." It seems unnecessary to make such consultation obligatory, since to make this an international obligation might in many cases prove to be onerous and likely to give rise to undesirable difficulties and delays.

Switzerland

15. (i) and (ii) The reply is in the affirmative.

The terms of Article 8 can be accepted subject to the following reservations. Consultation with the organisations of employers and workers should not be required, since the matter under consideration is individual requests from employers. The intervention of these organisations in each individual case would certainly complicate the examination of the requests and might lead to delay. It is questionable also whether it would not be preferable to refrain from fixing either a monthly or an annual limit to the allowance, since the requirements cannot be foreseen and any limit fixed in advance may prove to be inapplicable. It is necessary to have confidence in the national authority for the proper application of the exception. The condition might moreover be imposed that exceptions should be granted only within the narrowest limit possible.

The increase in pay should not exceed 25 per cent.

Union of South Africa

15. (i) The reply is in the affirmative.

(ii) The Union Government is in agreement with the limitation of overtime to sixty hours per annum and the payment therefor at one-and-a-half times the normal rate as an ultimate objective, but will be unable to contemplate ratification for a considerable time to come, and certainly not until the more important industrial countries have adopted the Convention.

United States of America

15. (i) and (ii) The reply is in the affirmative.

(c) Overtime for commercial Purposes

16. (i) Do you consider that overtime should be allowed to meet cases of exceptional pressure of work ?

(ii) If so, do you approve of the terms of Article 9, paragraphs (1), (2) and (3) of the draft text of 1936 ?

If you do not approve of the terms of these paragraphs in their entirety, please indicate what modifications you propose, in particular in respect of the following points :

(*a*) definition of the cases in which overtime is permissible ;

(*b*) requirement of application by employer for permission before overtime work is begun ;

(*c*) attachment of conditions and limitations to grant of permission ;

(*d*) consultation with employers' and workers' organisations before permission is granted ;

(*e*) consultation with employers' and workers' organisations as to aggregate amount of overtime for the works ;

(*f*) limitation of aggregate amount of overtime permitted ;

(*g*) limitation of overtime worked by any individual in any year ;

(*h*) limitation of overtime worked by any individual in any week (or other period less than a year).

Australia

Queensland

16. (i) and (ii) The replies are in the affirmative.

Tasmania

16. (i) and (ii) The replies are in the affirmative.

Belgium

16. (i) and (ii) The replies are in the affirmative.

Canada

Province of Ontario

16. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Province of Quebec

16. (i) and (ii) The replies are in the affirmative.

CHILE

16. (i) The reply is in the affirmative.

(ii) Yes, except as regards the limit to the number of hours of overtime authorised, which might be fixed at 2 hours per day and per person.

CZECHOSLOVAKIA

16. Yes: the fixing of an allowance of overtime to meet cases of exceptional pressure of work should be left to be settled by national laws and regulations.

DENMARK

16. (i) The reply is in the affirmative.

(ii) Yes. See, however, the reply to Question 15 (ii).

FRANCE

16. (i) The reply is in the affirmative.

(ii) As is mentioned above, the maximum number of hours of overtime which may be authorised for cases of exceptional pressure of work under the French Decree applying the forty-hour week to the textile industry (as also in the other Decrees so far issued) is at present fixed at 75. It is nevertheless stipulated that in the event of severe and prolonged unemployment in any trade the Minister of Labour, at the request of any workers' or employers' organisation concerned and after consultation with all the organisations, may provisionally suspend in whole or in part recourse to overtime of this kind for workers in that trade either throughout the whole of the territory or in one or more specified districts. It should be added that any employer who requests authorisation to work overtime is required to show that it is not possible for him to cope with the exceptional pressure of work by any other means, such as the engagement of extra staff.

The Government considers that the inclusion of a provision of this kind in the Draft Convention would be calculated to allay anxiety on the part of the workers as regards the use which would be made of the exception and would perhaps permit of the raising to 75 hours of the maximum overtime allowed, which would facilitate the ratification of the Convention.

Moreover, particularly in view of the very high proportion of women employed in the textile industry, the Government proposes that, as in the French regulations, the daily hours of work should not be prolonged as a result of the exception under consideration by more than one hour.

Finally, the Government feels obliged to insist that in large undertakings it is virtually impossible to ascertain and exercise effective control over the number of hours of overtime worked by *each individual* as is provided for in this Article. It does not seem that abuses can possibly be avoided unless overtime is permitted as a global allowance and reckoned, if not in respect of the whole works, at any rate in respect of distinct branches of the works or by sections or at the very least by separate classes of workers. This is the method which has always been applied in France and it has not given rise to any serious complaint from any of those concerned.

Norway

16. (i) and (ii) The reply is in the affirmative.

Poland

16. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative, except as regards the phrase "after consultation with the organisations of employers and workers concerned where such exist." (See the reply to Question 15 (ii)).

Switzerland

16. (i) and (ii) The reply must of course be in the affirmative. Overtime cannot be dispensed with. This has been shown by experience since the beginning of the present economic depression. Despite the severity of unemployment, individual works often find themselves obliged to prolong hours of work, either because skilled workers are not available, because the works cannot produce their own speciality save with a specially trained staff, because the premises and equipment do not permit of taking on a larger staff, or because a particular piece of work must be finished by the workers who began it. In view of these requirements and many others in addition, a certain latitude must be given to the works and this latitude should be fairly wide. From this point of view an allowance of sixty hours seems quite insufficient. Even with a forty-eight hour week it is often necessary to prolong the hours of work. With the forty-hour week it cannot be admitted that the necessity will be any less; on the contrary, it will be greater. Under the Swiss Factory Act a works may secure authority to prolong the working day (excluding Saturdays and the days preceding public holidays) on eighty days of the year and for not more than two hours on each day, and to a greater extent if there are imperative reasons. This allows at least 160 hours of overtime a year. In practice it has been found necessary to allow this maximum of 160 hours to be reckoned per person. It should be noted, however, that not all the undertakings exhaust this allowance. Excessive recourse to the overtime thus allowed to Swiss undertakings is made impossible by the fact that in each case the undertaking is required to obtain permission of the competent authority, which examines whether there is a need for overtime and, if so, authorises sufficient overtime to meet the need and fixes the limitations to be observed. The authorisation is given by the central authority or by a subordinate authority (in certain cantons the local authority), according to whether the number of days for which permission is requested exceeds or does not exceed a certain limit, so that there may be no loss of time in case of sudden and short term requirements.

While therefore the Swiss Government can accept without reserve the terms of paragraphs (1) and (2) of this Article in the draft text of 1936, it recommends, as regards paragraph 3, that the allowance should not be too narrowly limited — perhaps a maximum of 160 hours would be suitable, with a daily limit to be fixed by the national authority — and that an obligation to seek authorisation in each particular case should be imposed. There can of course be no question of consulting the organisations of employers

and workers on each request. This would complicate and delay the investigation of requests and would be out of proportion with the importance of the matter. Consultation should, on the contrary, take place once and for all when the national regulations for giving effect to these provisions are being framed. In Switzerland there is a "Federal Factory Commission" the function of which is to advise the Federal authority on general questions concerning the application of the Factory Acts and which is composed of equal numbers of representatives of employers and workers together with a few scientists or "neutral members". The latter are nominated directly by the Federal authority, while the representatives of employers and workers are appointed on the nomination of the respective central organisations. This Commission meets as occasion requires, under the chairmanship of the Head of the Federal Department of Public Economy or, as his deputy, of the Director of the Federal Office for Industry, Arts and Crafts and Labour.

Wherever in the course of the foregoing the Government has agreed to provisions for consultation of employers' and workers' organisations it has been on the assumption that the procedure indicated above complies with the rule laid down.

If the maximum number of hours of overtime is fixed at more than 140 hours a year it will be necessary to consider whether, the working week having been reduced to forty hours, the limit fixed in the case of female workers by the Berne Convention of 1913 (140 hours per year) should be maintained or not.

As regards paragraph 4, the Government considers that the extra rate of pay should not exceed 25 per cent.

Union of South Africa

16. (i) The reply is in the affirmative.

(ii) See reply to Question 15 (ii).

United States of America

16. Article 9, paragraph 3, should be amended to specify a maximum weekly overtime. The Government would favour an eight-hour limitation in any one week.

OVERTIME PAY

17. Do you consider that a minimum rate of extra pay should be prescribed for overtime worked in the cases covered by Articles 7, 8 and 9 of the draft text of 1936 ?

18. Do you consider that a minimum rate of extra pay should be prescribed for overtime worked in other cases ?

If so, please indicate the cases you propose.

19. Do you agree that the minimum increase in pay for overtime should be 50 per cent., as prescribed in Articles 7 (3), 8 (3) and 9 (4) of the draft text of 1936 ?

If not, please state what minimum you propose.

Australia

Queensland

17. The reply is in the affirmative.

18. The reply is in the affirmative.

19. Yes, subject to double time for overtime worked on certain statutory holidays as provided in the Industrial Conciliation and Arbitration Acts, 1932-35.

Tasmania

17. The reply is in the affirmative.

18. The reply is in the affirmative.

19. The reply is in the affirmative.

Belgium

17. The reply is in the affirmative.

18. The reply is in the negative.

19. The reply is in the affirmative.

Canada

Province of Ontario

17. The reply is in the affirmative.

18. The reply is in the negative.

19. The reply is in the affirmative.

Province of Quebec

17. The reply is in the affirmative.

18. Yes, at a rate at least 50 per cent. above the ordinary rate.

19. The reply is in the affirmative.

Chile

17. The reply is in the affirmative.

18. Yes, in all cases in which the Draft Convention authorises the working of hours in excess of the maximum weekly limit save in the cases covered by Article 6 of the draft text of 1936.

19. Yes. It might also be specified that the minimum rate of increase should be raised, to an extent to be fixed by national laws or regulations, when overtime is worked during the night or on Sundays or on public holidays.

Czechoslovakia

17, 18 and 19. The Government considers that the fixing of the rate of pay should be left to be dealt with by national laws or regulations or collective agreements.

Denmark

17. The reply is in the affirmative.

18. The reply is in the negative.

19. Since the rate is a minimum rate the Government doubts the necessity of going beyond the 25 per cent. which is stipulated, for example, in the Draft Convention on public works.

France

17. The Government considers that the Draft Convention should stipulate a minimum increase in pay for overtime worked in the cases dealt with in Articles 8 and 9. (In this connection reference is made to the observations made above on the character of the overtime provided for in Article 8).

As regards Article 7, certain reservations must be made in the light of the French regulations. Under the Decrees applying the forty-hour week in France the only overtime which must be paid for at a higher rate (apart from work which is the subject of a special Government order) is overtime required to cope with exceptional pressure of work, that is to say, overtime for commercial purposes.

Extensions of hours of work in the cases dealt with in Article 7 of the proposed Draft Convention (bleaching, etc. operations) do not fall within this category of overtime. Consequently, the assimilation of such overtime and overtime for commercial purposes may give rise to difficulties of which it would be well to take account. It should be added that there is of course nothing to prevent an increase in pay being given, either by way of national laws or regulations or by way of collective agreements, in the case of overtime other than that specified in the Draft Convention.

18. The reply is in the negative.

19. The French Government is of opinion that in the interests of uniformity it would be desirable to keep to 25 per cent. as the minimum rate of increase in pay for overtime. This is the rate adopted in similar Draft Conventions and is also that provided for in the Washington Convention on hours of work. There appears to be no special reason for departing from this rule in the case of the textile industry. Twenty-five per cent. is also the rate stipulated in the regulations applying the forty-hour week in France.

It should, moreover, be noted that this matter of the rate of payment for overtime is pre-eminently one to be dealt with by collective agreements, under which the increase in pay can easily be graduated according to the number of hours of overtime worked and according to whether the overtime is worked in the day-time, at night or on Sunday.

Norway

17. The reply is in the affirmative.

18. The reply is in the affirmative.

19. According to Norwegian law the minimum increase in pay for overtime is 25 per cent.

Poland

17. The reply is in the affirmative.

18. The reply is in the negative.

19. 25 per cent.

Switzerland

17. In its replies to previous questions the Government has stated that it considers an increase in pay to be justified in the cases provided for by Articles 8 and 9 of the draft text of 1936 but not in that provided for by Article 7, where the extension of hours of work is a matter of technical necessity.

18. The Government has no proposal to make.

19. The Government considers that in no case should the rate exceed 25 per cent., which is the rate fixed in existing Conventions and widely applied in practice. It should be left to the parties concerned, the employers and workers, to go beyond this in certain cases, as in fact is already the practice.

Union of South Africa

17. The reply is in the affirmative.

18. Provision should be made in the Draft Convention for the competent authority to provide for an increased rate for extra hours in such other cases as it considers necessary.

19. See reply to Question 15 (ii).

United States of America

17. The reply is in the affirmative.

18. Provided Article 6 with reference to urgent work is narrowly interpreted, there need not be further provision of penalty overtime rates.

19. The reply is in the affirmative.

MEASURES TO FACILITATE ENFORCEMENT

20. Do you approve of the terms of clause (*a*) of Article 10 of the draft text of 1936 ?

If you do not approve of the terms of this clause as a whole, please indicate what modifications you propose and, in particular, whether you propose any change in the phrase " by the posting of notices in a manner approved by the competent authority ".

21. Do you approve of the terms of clause (*b*) of Article 10 of the draft text of 1936 ?

If not, please indicate what changes you propose.

22. (i) Do you agree that the employer should be required to give notice before working emergency overtime ?

(ii) If so, do you approve of the terms of clause (*c*) of Article 10 of the draft text of 1936.

If not, please indicate what changes you propose.

AUSTRALIA

Queensland

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The replies are in the affirmative.

Tasmania

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The replies are in the affirmative.

BELGIUM

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

20. The Government approve of the intent of this clause but prefer the alternative wording suggested, as follows :

(*a*) to notify, in a manner approved by the competent authority, by the posting of notices or otherwise.

21. The reply is in the affirmative.

22. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Province of Quebec

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The replies are in the affirmative.

CHILE

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

Czechoslovakia

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. The Government suggests that the Convention should provide that the employer should be required to notify the competent authority, at any rate subsequently, of his intention to work overtime.

Denmark

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The replies are in the affirmative.

France

20. The reply is in the affirmative, subject to the following observations :

(*a*) Amend the beginning of clause (*a*) on the lines suggested by the Office (p. 41 of the Questionnaire) : " to notify in a manner approved by the competent authority, by the posting of notices in the works or otherwise."

The posting of notices might in fact in certain cases be replaced by some other method, such as, for example, entry in a special register.

(*b*) Include a provision that where work is organised in shifts the names of the workers in each shift should be posted up or entered in a special register. This would render control more effective.

21. The reply is in the affirmative.

22. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Norway

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) and (ii) The reply is in the affirmative.

Poland

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) The reply is in the negative.

(ii) The employer should be required to notify the competent authority without delay of cases in which it has been necessary to work extra hours in virtue of Article 6.

SWITZERLAND

20. The Government can accept the terms of Article 10 *(a)* of the draft text of 1936.

21. The Government can also accept clause *(b)* of Article 10, but it should be stipulated that the register should show also the number of hours of overtime worked per day.

22. (i) and (ii) In urgent cases and more particularly in the case of unforeseen emergencies it is not in practice possible to give notice beforehand. In such cases Swiss factory legislation requires the employer, when he has not been able to request permission beforehand, to notify the competent authority, on the next working day at latest, of the circumstances which have compelled him to depart from the rules laid down. The imposition of an obligation to give notice in advance when that is possible provides a check which can, of course, be agreed to. The best course would be to make provision for both possibilities.

UNION OF SOUTH AFRICA

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. (i) This is a matter which should be left to the discretion of the competent authority.

(ii) Falls away.

UNITED STATES OF AMERICA

20. It is satisfactory to amend the provisions of Article 10 *(a)* so as to include other forms of notification as well as that of the posting of notices.

21. The reply is in the affirmative.

22. The reply is in the affirmative.

ANNUAL REPORTS ON THE APPLICATION OF THE CONVENTION

23. (i) Do you agree that the proposed Draft Convention should specify certain matters on which information should be furnished in the annual reports submitted by Members ?

(ii) If so, do you approve of the specification of the matters set out in Article 11 of the draft text of 1936 ?

If not, please indicate what changes you propose.

AUSTRALIA

Queensland

23. (i) and (ii) The replies are in the affirmative.

Tasmania

23. (i) and (ii) The replies are in the affirmative.

BELGIUM

23. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

23. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

Province of Quebec

23. (i) and (ii) The replies are in the affirmative.

CHILE

23. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

CZECHOSLOVAKIA

23. The annual reports should be limited to matters on which information is required for purposes of supervision. The detailed specification of the points on which information should be furnished in the annual reports by Members on the application of the Convention is a matter for the Governing Body of the International Labour Office.

DENMARK

23. (i) and (ii) The replies are in the affirmative.

FRANCE

23. (i) The reply is in the affirmative.

(ii) It is proposed that there should be added to this list exemptions from the application of the Convention decided upon in virtue of Article 2.

NORWAY

23. (i) and (ii) The reply is in the affirmative.

POLAND

23. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

SWITZERLAND

23. (i) and (ii) The Government can agree, but is doubtful whether Article 11 does not go too far in imposing in clause *(d)* an obligation to report on the overtime granted to individual works. If only for reasons of economy of time the reports to be furnished to the International Labour Office cannot go into too much detail.

As regards clause *(c)*, the Government points out that the information desired would no doubt be available as regards the number of hours of overtime authorised, but not as regards the number of hours of overtime actually worked. The collection of the necessary data on the second point would necessitate investigations which would take too much time and would be regarded as irksome by the undertakings.

UNION OF SOUTH AFRICA

23. (i) The matters upon which an annual report should be furnished should be laid down in the " Form for the Annual Report " and should not be specified in the Draft Convention.

(ii) Falls away.

UNITED STATES OF AMERICA

23. (i) and (ii) The reply is in the affirmative.

SAFEGUARDING OF MORE FAVOURABLE CONDITIONS

24. (i) Do you consider it desirable to include in the proposed Draft Convention an Article safeguarding more favourable conditions ensured otherwise than by the application of the Convention ?

(ii) If so, do you approve of the terms of Article 12 of the draft text of 1936 ?

If not, please indicate what changes you propose and in particular whether you consider it necessary to include arbitration and other awards.

AUSTRALIA

Queensland

24. (i) and (ii) The replies are in the affirmative.

Tasmania

24. (i) and (ii) The replies are in the affirmative.

BELGIUM

24. (i) and (ii) The replies are in the affirmative.

CANADA

Province of Ontario

24. (i) The reply is in the affirmative.

(ii) The Government approve of the terms of this Article with the addition of the word " award " so that it will read :

Nothing in this Convention shall affect any law, award, custom, or agreement between employers and workers which ensures more favourable conditions than those provided for by this Convention.

Province of Quebec

24. (i) and (ii) The replies are in the affirmative.

CHILE

24. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

CZECHOSLOVAKIA

24. (i) and (ii) The replies are in the affirmative.

DENMARK

24. (i) and (ii) The replies are in the affirmative.

FRANCE

24. (i) The reply is in the affirmative.
(ii) The reply is in the affirmative.

NORWAY

24. (i) and (ii) The reply is in the affirmative.

POLAND

24. (i) and (ii) (No reply is given).

SWITZERLAND

24. (i) and (ii) The reply is in the affirmative.

UNION OF SOUTH AFRICA

24. (i) and (ii) The reply is in the affirmative.

UNITED STATES OF AMERICA

24. (i) The reply is in the affirmative.

RELATION OF PROPOSED DRAFT CONVENTION TO THE FORTY-HOUR WEEK CONVENTION, 1935

25. Do you approve of the inclusion in the Preamble to the proposed Draft Convention of the phrase "Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living" which appears in the draft text of 1936 ?

If not, please indicate what changes you propose.

AUSTRALIA

Queensland

25. The reply is in the affirmative.

Tasmania

25. The reply is in the affirmative.

BELGIUM

25. The reply is in the affirmative.

CANADA

Province of Ontario

25. The reply is in the affirmative.

Province of Quebec

25. The reply is in the affirmative.

[illegible]

25. The reply is in the affirmative.

CZECHOSLOVAKIA

25. The reply is in the affirmative.

[illegible]

25. The reply is in the affirmative.

[illegible]

25. The reply is in the affirmative.

NORWAY

25. The reply is in the affirmative.

POLAND

25. The reply is in the negative.

SWITZERLAND

25. The Government reiterates the views it has already expressed in this connection in its earlier replies to the same question, which are still applicable. The Government's previous statement was in the following terms:

These questions illustrate the difficulties *of a general character* resulting from the adoption of Convention No. 47 concerning the reduction of hours of work to forty per week. A new kind of

Convention was thus created and there are now two different types: Conventions of the kind familiar hitherto, which contain precise and strictly defined legal obligations, and Conventions which do not aim at laying down a legal obligation, but simply declare a general principle in an abstract fashion, as in the case of Convention No. 47 relating to the forty-hour week adopted in 1935. It might be asked if the second type of Convention is in conformity with the intention and purpose of Article 405 of Part XIII of the Versailles Peace Treaty, for, according to the intentions underlying this Article (and other provisions bearing on it), a Convention should evidently lay down precise legal standards, while it was intended that simple postulates not having the force of obligations should be expressed in the form of a Recommendation. Moreover, the practical importance of such a Convention as that of the forty-hour week, which has created a dangerous confusion in the legal sphere, is very doubtful, since the general and the particular Conventions, although having a bearing one on *the other, are nevertheless in law and in fact entirely independent;* in fact, a general Convention may be ratified without any obligation to ratify also the particular Conventions which it envisages, and, on the other hand, a State Member may adhere to a particular Convention without having ratified the general Convention.

As regards the manner in which a connection should be established between the general Forty Hours Convention and the particular Conventions with reference to the *maintenance of the standard of living*, in this instance also the principle must be adhered to that the only proper means of dealing with the matter is by regulations which are legally quite free from obscurity. Thus regarded, the problem admits of only two possibilities: either a special provision should be inserted in the text of the Convention or no mention should be made of it at all. A reference in the preamble, as in the case of Convention No. 49 on the reduction of hours of work in Glass-Bottle Works and also as suggested in the Questionnaire, is no more than a simple fiction, if not an illusion. Such a reference has no legal force. Further, the Conference has refrained, with good reason, from including in the preamble of any of the 46 Conventions so far adopted any provision dealing with questions of substance. There can, however, be no question of including in the Convention a special Article on the maintenance of the standard of living of the workers in view of the fact that such a provision, as is rightly pointed out in the commentary on the Questionnaire, cannot be given effect in practice (although the Article figures in the text of the general Forty-Hour Week Convention). Is it suggested that States should undertake *to control the price level and earnings* by making the constant adjustments necessary to maintain a specific relation between these two factors? Even should any country take such measures, which could happen only in exceptional cases and also only to a limited extent, it would hardly be possible to exercise international supervision in order to ascertain if the measures were adequate.

As regards the substance of this question, the Government continues to be opposed to any reduction of hours of work which is subjected to the condition that it must not entail a lowering of the standard of living of the workers.

CHAPTER II

GENERAL SURVEY OF THE REPLIES TO THE QUESTIONNAIRE

The consultation of Governments was designed to secure an expression of their views on three main questions — (1) whether the Conference should adopt international regulations for the reduction of hours of work in the textile industry ; (2) whether the regulations should take the form of a single Draft Convention covering the whole of the industry or of a series of Draft Conventions each applicable to a particular kind or kinds of textile works or employment ; and (3) whether, and in what way, the text of the proposed Draft Convention adopted by the Textiles Committee of the Twentieth Session of the Conference needed modification to make it a satisfactory basis for a final decision on the subject by the Conference in 1937. The results of the consultation are briefly summarised below under these three headings.

1. The Desirability of adopting International Regulations

Question 1 (Replies on pages 7 to 17)

In a few cases the Governments abstain from expressing an opinion on this question because the textile industry is virtually non-existent in their territories. This is the case with the Canadian Provincial Governments of Alberta, Manitoba and Saskatchewan and also, apparently, of British Columbia, though the last-mentioned Government expresses its approval of the principle of a reduction of hours of work as being in line with legislation already enacted in the Province.

Another group of Governments, though having a practical interest in the matter, are non-committal in their replies. This group includes Australia (New South Wales and Victoria), Austria, China, the Irish Free State and Japan. In the case of Japan the general tenor of the Government's reply is somewhat negative, though it expresses approval in principle. The reply of the Irish Free State Government, on the other hand, is in its general tenor favourable. This Government declares itself in favour of the principle of reduction of hours of work

and points out that legislation is already in force under which hours of work can be reduced in any form of industrial work; it refrains from giving a detailed reply to the Questionnaire only because it prefers to await further experience of the working of this legislation and consideration of the report of the tripartite conference on conditions in the textile industry convened in pursuance of the resolution adopted by the Twentieth Session of the Conference.

The replies of eleven Governments are definitely unfavourable, though not all to the same degree. These are the Governments of Bulgaria, Egypt, Estonia, Finland, Greece, Hungary, India, the Netherlands, Sweden, Switzerland and Yugoslavia. The Estonian Government is opposed to the adoption of a Draft Convention and would prefer a Recommendation. The Egyptian Government approves of the principle of a reduction of hours of work in all branches of industry but is not in favour of reducing hours of work in the textile industry in Egypt to 40 a week at the present time. The opposition of the remaining seven Governments is based for the most part on the economic conditions prevailing in their respective countries. In Finland there is no unemployment in the textile industry and consequently no reason for the reduction of hours of work to 40 a week on that ground. A similar reason is given by the Government of Sweden. In Yugoslavia also the conditions in the industry do not call for the introduction of a shorter week as a remedy for unemployment, and since the industry is not fully equipped with modern machinery shorter hours of work might mean a diminution in production and consequent unemployment. In Greece the economic and financial difficulties of the industry are such that it has not yet been found possible to apply the 8-hour day in all branches of the industry. A similar reply is given by the Government of Hungary. Apprehensions as to the possible reactions of a reduction of hours of work upon wages are also expressed by the Governments of Bulgaria, Greece and Yugoslavia. The Swiss Government is concerned for the effect of a reduction of hours of work, with a consequent increase in costs of production, upon the country's power to compete on the international market, the special conditions of Switzerland making export trade a vital necessity. The Swedish Government also calls attention to the question of international competition. Two Governments — those of India and the Netherlands — are opposed to the reduction of hours of work, not merely because of the special economic conditions in their countries, but also because they consider, for reasons which are set out in their replies, that the policy is in itself economically unsound.

On the other hand, the replies from Australia (States of Queensland, Tasmania and Western Australia), Belgium, Canada (Provinces of British Columbia — already mentioned above — Ontario and Quebec), Chile, Czechoslovakia,

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On the other hand, the replies from Australia (States of Queensland, Tasmania and Western Australia), Belgium, Canada (Provinces of British Columbia — already mentioned above — Ontario and Quebec), Chile, Czechoslovakia,

Denmark, France, Norway, Poland, the United States of America and the Union of South Africa are all in favour of the adoption of a 40-Hour Week Convention for the textile industry. In the case of Western Australia, the Government supports the proposal for a 40-hour week, provided that it is introduced on an all-Australia basis. This State has few textile works, but the Government mentions in its reply that the workers of the woollen mills at Albany and the hosiery establishments at Perth at present work a 44-hour week. The Czechoslovak Government intimates that its ratification of a Draft Convention would be subject to simultaneous ratification by all the important textile-producing countries. The South African Government's approval is limited to the 40-hour week as an ultimate objective and it does not hold out hope of early ratification of any Draft Convention that may be adopted by the Conference. As is usually the case, the Governments that are in favour of the adoption of a Draft Convention confine themselves in their replies to a simple statement of their attitude without explanation or comment.

It will be seen that the opinion of Governments is fairly evenly divided. Affirmative replies have been given by several countries which are very large producers of textile goods, but negative replies have been given by other countries which are of considerable importance in the world textile industry, while no reply has been received from the British Government.

2. The Desirability of a Single Draft Convention

Question 1 (Replies on pages 15 to 17)

All the Governments that have given detailed replies to the Questionnaire and are in favour of the adoption of international regulations are also in favour of a single Draft Convention rather than a series of Conventions. The Government of Western Australia does not specifically refer to this point. The Swiss Government, which is opposed to the adoption of a Draft Convention but nevertheless, in accordance with its usual practice, has furnished a detailed reply to the Questionnaire as a contribution to the study of the problem, is of opinion that a single Convention covering the whole of the textile industry is preferable to a series of Conventions. None of the other replies, whether favourable or unfavourable to the adoption of international regulations or simply non-committal, contains any suggestion that the Conference should consider the adoption of a series of Draft Conventions rather than a single Draft Convention.

The weight of opinion is thus very decidedly in favour of a single Draft Convention covering employment in textile works of all kinds.

3. The Revision of the Draft Text of 1936

The remaining questions addressed to Governments were designed to elicit from them criticisms and suggestions for the improvement of the text of a proposed Draft Convention which was adopted by the Textiles Committee of the Twentieth Session of the Conference. Very few alterations to the draft text of 1936 are proposed in the fourteen detailed replies received to the Questionnaire. The Office therefore reproduces below, for purposes of reference, the several Articles of the draft text of 1936, and gives a very brief summary of the various proposals made in connection with them, leaving the detailed consideration of these proposals to the next chapter.

Scope of the Draft Convention

(a) *As regards the Works affected*

Questions 2, 3 and 4 (Replies on pages 16 to 22)

Article 1

1. This Convention applies to persons employed in textile works or in any branch thereof.

2. A works shall be considered a textile works if it is engaged wholly or mainly in any one or more of the series of operations delimited in paragraphs 3, 4 and 5 of this Article in the course of the production of any kind of thread, yarn, twine, cord, rope, netting or felt, or any woven, knitted or lacework fabric, from any one or more of the following materials: cotton, wool, silk, flax, hemp, jute, artificial silk or any other synthetic fibre, or any other textile material whether of vegetable, animal or mineral origin.

3. The series of operations upon which a works must be wholly or mainly engaged to constitute it a textile works begins:

(a) in the case of cotton, with the reception of the bales of ginned cotton for breaking up and cleaning;
(b) in the case of wool, with the reception of the raw wool for sorting and cleaning (excluding the process of anthrax disinfection);
(c) in the case of silk, with the reeling of the silk from the cocoon;
(d) in the case of flax and hemp, with the operation of retting, except where this operation is effected as work accessory to that of an agricultural undertaking;
(e) in the case of artificial silk or other synthetic fibre, with the process immediately succeeding the chemical production of the thread;
(f) in the case of rags, with the sorting of the rags; and
(g) in the case of any other textile material, with the operation prescribed by the competent authority as corresponding to the operations set out above.

4. The series of operations upon which a works must be wholly or mainly engaged to constitute it a textile works ends with the packing and despatch from the works of the products specified in paragraph 2 of this Article.

5. The series of operations upon which a works must be wholly or mainly engaged to constitute it a textile works includes the making in whole or in part of any garment or other article only in the following cases:

(a) the case of hosiery manufacture; and

(b) cases in which the garment or other article is made by the same process as the fabric thereof.

6. This Convention applies to persons employed in textile branches of non-textile works if the branch in which they are employed:

(a) is distinct from the rest of the works as regards staff and premises, and

(b) is engaged wholly or mainly upon one or more of the operations delimited in paragraphs 3, 4 and 5 of this Article.

7. This Convention does not apply to persons employed in textile works in branches engaged upon the chemical production of artificial silk or other synthetic fibre.

8. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the line of demarcation that separates works or branches thereof covered by this Convention from works or branches engaged in related industries or operations.

The French Government suggests a drafting alteration to paragraphs 3, 4 and 5 designed to secure greater clarity.

The Swiss Government suggests amplifying paragraph 3 of this Article in respect of schappe silk, rags and jute. It questions the advisability of differentiating between works making up garments or other articles from knitted fabric according to whether the fabric is manufactured in the same works or not, as is done in paragraph 5. On paragraph 6, this Government calls attention to the difficulties that would arise if the line of demarcation of the scope of the Convention were to pass through a single work.

The United States Government proposes a drafting alteration to paragraph 2 in order to make it clear that the manufacture of carpets and rugs is included within the scope of the Convention.

On the question whether the chemical production of synthetic fibre should be included within, or excluded from, the scope of the Draft Convention the opinions of Governments are divided. The replies from Australia (States of Queensland and Tasmania), Belgium, Canada (Province of Quebec), Denmark, France and Switzerland are in favour of bringing the chemical production of synthetic fibre within the scope of the Convention, whereas those from Canada (Province of Ontario), Chile, Czechoslovakia, Norway, Poland and the United States of America are in favour of exclusion. The Union Government of South Africa refrains from expressing any opinion, as the matter is not at present of practical importance in that country.

(b) *As regards the Persons affected*

Questions 5 and 6 (Replies on pages 23 to 26)

ARTICLE 2

The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention :

(a) persons employed in undertakings in which only members of the same family (which expression includes only the father, mother, guardian and children) are employed ;

(b) persons holding positions of management who do not perform manual work.

The power of exemption for which provision was made in clause (*a*) of this Article of the draft text of 1936 is disapproved only by the Government of Norway. The United States Government would itself prefer a Convention covering family undertakings, but raises no objection to provision for exemption if it is clear that the exemption must be with the specific authorisation of the competent authority in each country. The Union Government of South Africa raises no objection to the proposed power of exemption, but does object to the stipulation that the competent authority must consult the employers' and workers' organisations before exercising the power ; such consultation, which is in fact the policy of the Government whenever practicable, is in its view a matter for the discretion of the Government.

The Swiss Government approves of the proposed power of exemption, but suggests that in this, as in earlier Conventions, it might be well to refrain from any definition of what is meant by the " family ".

The French Government, while agreeing that exemption for family undertakings should be permitted, raises nevertheless the question whether the Draft Convention itself should not expressly provide for the possibility of applying some more flexible, but substantially equivalent, regulation of hours of work to such undertakings. The Government recognises, of course, that this could be done even without express reference in the Convention, but considers that the reference would be useful as a suggestion and makes the further proposal that it would be possible to secure information as to the extent to which hours of work in these undertakings was in fact regulated if this point were mentioned in the Article dealing with the annual reports to be furnished by Governments.

All the Governments replying to Question 6 approve of the proposed provision for the exemption of persons holding positions of management. The Union Government of South Africa repeats its objection to making consultation with the employers' and workers' organisations compulsory. The Swiss Government points out that exemption must be permitted

in the case of branch or sectional managers as well as in respect of general managers. Both the French and Norwegian Governments suggest the deletion of the qualifying phrase " who do not perform manual work ", the French Government holding the view that the performance of manual work is in fact incompatible with the function of management. The Czechoslovak Government proposes that exemption should also be allowed for persons holding supervisory positions who do not perform manual work, together with watchmen and others engaged on work which is irregular or is not fatiguing.

Definition of Hours of Work

Question 7 (Replies on pages 27 to 28)

Article 3 (2)

2. For the purpose of this Convention, the term " hours of work " means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

With one exception — Canada (Province of Quebec) — all the replies to this question are in favour of maintaining the definition of hours of work that has been adopted in earlier Conventions on this subject. Indeed, since the only Government replying in the affirmative to the question does not suggest any modification of the definition, it is not impossible that the form in which the question was put may have resulted in some misunderstanding, and that this Government is in fact in favour of the usual definition. It should be noted, however, that the United States Government, in its reply, calls attention to the importance of the inclusion of short routine rest periods within the reckoning of hours of work, but, recognising that the matter is not peculiar to the textile industry, suggests that the proposal made by the French Government representative in the Textiles Committee of the Conference in 1936 — to amend the latter part of the definition so that it would read " rest periods during which the workers and employees are free to dispose of their time and movements " — should be embodied in a Recommendation or interpretation applying to Hours of Work Conventions in general.

Standard 40-Hour Week

Questions 8 to 11 (Replies on pages 28 to 32)

Article 3 (1)

1. The hours of work of persons to whom this Convention applies shall not exceed 40 in any week.

Article 4

The competent authority may, by regulations made after consultation with the organisations of employers and workers concerned where such exist,

(a) authorise the weekly hours of persons employed in retting operations to be calculated as an average over a prescribed period; and

(b) permit time spent in cleaning by persons employed on productive work on machines who also clean the said machines to be excluded from the reckoning of their hours of work to an extent not exceeding one hour per week.

Subject, of course, to the reservations or disagreement already expressed by certain Governments in their replies to Question 1, the fixing of the standard working week at 40-hours is approved in all the replies. The Government of the Australian State of Queensland makes its approval subject to general adoption of the Convention. The Canadian Provincial Government of Quebec, while replying to the question in the affirmative, suggests that to begin with the working week might be fixed at 44 hours. The Czechoslovak Government suggests that in undertakings where work is carried on continuously the limit should be fixed at 42 hours. The Swiss Government points out that continuous services such as hydro-electric plants to supply power for textile works cannot adapt their working to the 40-hour week, so that special provision would have to be made for them unless they could be excepted from the scope of the Convention under Article 1 (3). The French Government calls attention to the fact that if the chemical production of synthetic fibre, which entails continuity in working, is brought within the scope of the Convention provision will have to be made for an average 42-hour week.

With the exception of that from Tasmania, all the replies are in favour of allowing the working week to be reckoned as an average over a period in the case of retting operations. The Union Government of South Africa considers that any Convention adopted should lay down simple general principles, all matters of detail being left to the competent authority; but it would seem that this Government does not object to allowing averaging in the case of retting operations.

Three Governments suggest that averaging should be allowed in cases other than that of retting. The Czechoslovak Government suggests that the Draft Convention should allow averaging over a fairly long period to be permitted in other cases in accordance with national laws and regulations. The Polish Government considers that averaging should be allowed for all the works covered by the proposed Draft Convention. The Swiss Government considers that it should be left to the national Governments to deal with this matter and, where necessary, to determine the cases in which averaging should be permitted. This Government considers it advisable

that averaging should not be allowed without restriction and suggests that maxima of 48 hours a week and 9 hours a day should be fixed. It should be noted that the Swiss Government contemplates resort to averaging particularly for the purpose of meeting requirements which are markedly seasonal. The Union Government of South Africa again prefers to leave this question to the competent authority and the French Government points out that in the event of the inclusion of the production of synthetic fibre within the scope of the proposed Draft Convention it would be necessary to allow averaging for the 42-hour week on continuous processes.

Again with the exception of the Tasmanian Government, all the Governments agree that special provision should be made in the Convention to deal with cleaning time. The Union Government of South Africa considers that the details in this matter also should be left to the competent authority. Nearly all the replies express approval of the provision appearing in Article 4 (*b*) of the draft text of 1936. The French Government, however, calls attention to the fact that under its legislation in certain cases it is possible for the time allowed for cleaning in excess of the ordinary working week to be rather longer than that prescribed in Article 4 (*b*). The Swiss Government, while approving of the 1936 text, appears to consider that the cleaning of machines, dealt with in Article 4 (*b*), might also be regarded as coming under the exception for preparatory and complementary work for which provision is made in Article 5.

Exceptions

Questions 12 and 13 (Replies on pages 33 to 35)

Article 5

1. The competent authority may, by regulations made after consultation with the organisations of employers and workers concerned where such exist, provide that the limit of hours prescribed in Article 3 may be exceeded in the case of:

(*a*) persons employed on preparatory and complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking or branch thereof or of the shift; and

(*b*) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls.

2. The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article.

Article 6

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking, in case of accident, actual or threatened, or in case of urgent and unforeseen work to be done to machinery or plant, or in case of *force majeure*.

With the exception of the Tasmanian Government, which prefers a uniform 40-hour week throughout, all the Governments approve generally of the provision for longer hours on preparatory, complementary and intermittent work and for dealing with accidents and other emergencies. The Union Government of South Africa, however, objects to the requirement in Article 5 that the competent authority must consult with the organisations of employers and workers concerned before making regulations fixing longer hours of work for preparatory, complementary and intermittent work. Although it is its general policy so to consult the organisations, this Government considers that the matter is one which should be left to the discretion of the competent authority in each country. The United States Government raises no objection to Article 5 provided that there is a narrow interpretation by the competent authority of the exemptions in clause (*a*).

As regards emergency work the text of Article 6 is in general approved in all the replies, but certain Governments make some suggestions. The Canadian Provincial Government of Quebec considers that the permission of the authorities should be required for the working of extra time under this Article. The Czechoslovak Government proposes the addition of a provision to meet the case of the unforeseen absence of one or more members of a shift. The Polish Government prefers to maintain this Article without change from the form in which it has appeared in previous Conventions; that is to say, it does not consider it desirable to add the words " and unforeseen " between " urgent " and " work ". The Swiss Government suggests a drafting change in the French text, which as drafted appears to it to allow rather too much latitude. This Government also calls attention to the fact that under the Swiss legislation employers are required to notify the competent authority in the district without delay when overtime of this nature has to be worked. The United States Government considers that the wording of the Article can be regarded as satisfactory only if the reference to urgent work is read in close conjunction with the rest of the Article covering accidents and *force majeure*.

Overtime to ensure Continuity of Operations

Question 14 (Replies on pages 35 to 37)

Article 7 (1) and (2)

1. The limits of hours prescribed in Articles 3 and 5 may be exceeded in cases where the continued presence of particular persons is necessary for the completion of:

(*a*) a bleaching, dyeing, finishing or other operation, or

(*b*) a succession of such operations,

the completion of which is technically necessary to avoid damage to the material worked.

2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which and the conditions subject to which the preceding paragraph applies and the maximum number of hours in excess of the prescribed limits which may be worked by the persons concerned.

These provisions of the draft text of 1936 are approved in the majority of the replies. The United States Government suggests as a drafting alteration that "printing" should be specifically mentioned. The Union Government of South Africa again objects to consultation with the employers' and workers' organisations being made obligatory. The Swiss Government, while approving of the text, appears to consider that overtime of the kind in question might be regarded as covered by the exception allowed for in Article 5 (*a*).

The French Government, on the other hand, questions the necessity for a reference to Article 5 at the beginning of this Article, considering that it is not necessary to contemplate overtime being worked in virtue of both Articles. Overtime on the operations dealt with in this Article can generally be avoided, and in the view of the French Government should be avoided, by the organisation of the work on a shift system, and for this reason the French regulations now in force specially exempt work on these operations from the general prohibition of shift working. This Government therefore considers that it should be clearly specified in this Article that overtime should be allowed only in the case of exceptional and unforeseen necessity. The French Government also points out that under its legislation a limit of two hours a day is fixed for overtime of this character.

Overtime to ensure Full-time Working in all Sections

Question 15 (Replies on pages 37 to 39)

Article 8 (1), (2) and (4)

1. Upon application by an employer, the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, grant an allowance of overtime for specified classes of persons in exceptional cases in which overtime working on one or more operations is necessary in order to enable the workers engaged in subsequent operations in the same works to be employed up to the prescribed limits of hours.

2. The competent authority shall determine, after consultation with the organisations of employers and workers concerned where such exist, the number of hours of overtime which may be worked in virtue of paragraph 1 of this Article, so however that no such allowance shall permit of any person being employed for more than sixty hours of such overtime in any year or for more than four hours of such overtime in any week.

4. The competent authority may attach to the grant of an allowance of overtime such conditions as it deems expedient with a view to securing a progressive reduction in the amount of overtime.

This Article in the draft text of 1936 has given rise to a considerable number of observations, the only Governments which express their approval without qualification or comment being those of the Australian States of Queensland and Tasmania, Belgium, the Canadian Provinces of Ontario and Quebec, Norway, and the United States of America. The *Union Government of South Africa approves of the limitation* of overtime to sixty hours a year as an ultimate objective, but declares that it could not contemplate ratification of the Draft Convention for some considerable time. The Polish and Swiss Governments both object to consultation with the employers' and workers' organisations being made obligatory. Suggestions as to the amount of overtime to be allowed are made by three Governments. A limit of two hours per day and per person is suggested by the Government of Chile. The Swiss Government questions the advisability of fixing in advance a definite limit, whether monthly or annual, which experience may prove to be inapplicable; it considers that the judicious limitation of overtime of this kind must be left to the competent authority, though an indication might be given in the Article that exceptions should be allowed only within the narrowest possible limits. The Danish Government also appears to fear that the limit of 60 hours of overtime to be worked by any person in a year may in some cases prove inadequate; it suggests that provision should be made to permit the limit being exceeded when technical reasons so require to ensure that the undertaking can be kept in full working. The Czechoslovak Government would leave the whole question of the fixing of an allowance of overtime to be settled by national laws or regulations.

The French Government's proposals are much more far-reaching. This Government points out that the overtime dealt with in this Article is in general necessitated by a lack of balance in the equipment of the various sections of the works, and that consequently the appropriate remedy is for the employer to install more plant in the under-equipped sections. It therefore suggests that if the inclusion of a special provision for overtime due to this cause is considered necessary, the arrangement might be made a transitional one, operative only for a limited period. The French legislation now in force does not make special provision for overtime of this character, the case falling under the wider category of overtime to cope with exceptional pressure of work. The French Government accordingly suggests that this Article might be dropped, and the overtime limit fixed in Article 9, which deals with cases of exceptional pressure of work, raised from 60 hours to 75 hours a year. In support of this proposal, it points out that this would avoid the possibility of the limit under Article 8 being added to that under Article 9, and that the procedure for authorising overtime is the same under both Articles.

OVERTIME FOR COMMERCIAL PURPOSES

Question 16 (Replies on pages 40 to 43)

ARTICLE 9 (1), (2), (3)

1. The limits of hours prescribed in the preceding Articles may be exceeded so far as is necessary for auditing or stock-taking, for the execution of urgent orders, or for other cases of exceptional pressure of work.

2. Before employing any person on overtime in virtue of this Article, the employer shall apply for permission to the competent authority, and the competent authority may either refuse permission or give permission subject to such conditions and limitations as it may think expedient.

3. The competent authority shall determine, after consultation with the organisations of employers and workers concerned where such exist, the maximum number of hours of overtime which may be worked in any works in virtue of this Article, so however that no person shall be employed for more than sixty hours of such overtime in any year.

Here again there is an appreciable diversity in the replies of Governments. The provisions appearing in the draft text of 1936 are accepted without comment by the Governments of the Australian States of Queensland and Tasmania, Belgium, the Canadian Provinces of Ontario and Quebec, Denmark and Norway. The Union Government of South Africa, as in its reply to Question 15, accepts the proposed limitation of overtime only as an ultimate objective. The Polish and Swiss Governments repeat their objection to making obligatory consultation of the employers' and workers' organisations by the competent authority. The Chilean Government suggests that the limit of overtime to be worked by any person should be fixed at two hours a day, while the French Government suggests one hour a day and the United States Government eight hours a week; but whereas the French and United States proposals for a daily or weekly limit are in addition to the annual limit, the Chilean proposal appears to be in substitution for it. A daily limit, to be fixed by the competent authority, in addition to an annual limit, is also suggested by the Swiss Government. The Czechoslovak Government, in its reply to this as to the preceding question, considers that the fixing of the allowance of overtime should be left to be settled by national laws or regulations.

The French Government proposes, as already indicated in its reply to Question 15, that the annual limit should be raised from 60 to 75 hours. This is the limit fixed in the French legislation now in force, but the Government points out that two safeguards are provided. Permission to work overtime may be suspended at any time, in respect of a particular class of workers, either nationally or in specified districts, in the event of severe and prolonged unemployment; the decision is taken by the Minister of Labour, on the initiative of any workers' or employers' organisation and after consul-

tation with all the workers' and employers' organisations concerned. Moreover, before authority to work overtime is given, the employer is required to show that he cannot cope with the extra pressure of work by any other means such as the engaging of additional staff. In support of its proposal that a daily limit of one hour should be fixed the French Government calls attention to the fact that the textile industry employs a high proportion of women. Finally the French Government insists on the difficulty of enforcing an annual limitation of overtime in respect of individuals, and expresses the view that, if the limit is not applied in respect of the works as a whole, it should be applied in respect of distinct sections or branches of works or at any rate in respect of the workers belonging to a particular trade, taken as a unit.

The Swiss Government regards the proposed limitation of overtime to 60 hours a year as quite insufficient to meet the practical requirements of the industry. It therefore suggests the raising of the maximum to 160 hours a year, with two safeguards to prevent excessive recourse to overtime. The first of these would be the fixing of a daily limit by the competent national authority. The second would be a requirement that the employer should seek authorisation for overtime working in each particular case. At the same time the Swiss Government points out that, as the Berne Convention of 1913 fixes a limit of 140 hours a year to overtime by women workers, it would be necessary to consider whether this limit should be maintained or not if its proposal of a general limit of 160 hours were adopted.

Overtime Pay

Questions 17, 18 and 19 (Replies on pages 44 to 46)

Articles 7 (3), 8 (3) and 9 (4)

Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-half times the normal rate.

The draft text of 1936 makes provision for overtime pay at a rate higher than the normal in the case of overtime to ensure continuity of operations (Article 7), overtime to ensure full-time working in all sections of a works (Article 8) and overtime for commercial purposes (Article 9). The necessity for such provision in all three cases is definitely accepted by eleven Governments (twelve, if the Czechoslovak Government's reply may be interpreted as referring only to the rate of overtime pay). Two Governments, however, make distinctions.

The French Government points out that under the French legislation now in force payment for overtime at a higher rate is required, as a matter of legal obligation, only in the case

of overtime for commercial purposes (save in the exceptional case of overtime worked by direct order of the Government): in effect, the discordance between the provision in the draft text of 1936 and that in the French legislation exists only in the case of overtime to ensure continuity of operations (Article 7), since overtime to ensure full-time working in all sections (Article 8) is treated as overtime for commercial purposes. The French Government, it should be added, does not, of course, raise any objection to the payment of overtime at a higher rate in cases other than that specified in its legislation; the cases in which overtime pay is given can be extended at will by means of collective agreements, which the Government, as will be seen from its reply to Question 19, considers the most appropriate method of dealing with questions of detail concerning overtime.

The Swiss Government also objects to making the payment of overtime at a higher rate obligatory in the case of overtime to ensure continuity of operations (Article 7), where the extension of hours of work is a matter of technical necessity.

Certain Governments suggest, in their replies to Question 18, that a minimum rate of extra pay should be prescribed in cases other than those dealt with in Articles 7, 8 and 9 of the draft text of 1936. The Union Government of South Africa considers that provision should be made in the Draft Convention for the competent authority in each country to provide for an increased rate for extra hours in such other cases as it considers necessary. The Australian State Governments of Queensland and Tasmania, the Canadian Provincial Government of Quebec, and the Norwegian Government do not specify any additional cases and presumably consider that extra pay should be given for all extra hours beyond the standard forty a week, however occasioned. This is also the view of the Government of Chile, save in respect of the emergency overtime provided for in Article 6. It should be added that the United States Government qualifies its agreement that extra payment for overtime need not be prescribed in other cases than those specified with the condition that the provisions of Article 6 with reference to urgent work are narrowly interpreted.

On the question of the amount of the increase in pay to be prescribed for overtime, the Governments are divided in their views. The increase of 50 per cent. of the ordinary rate of pay which was decided on by the Committee of the Conference in 1936 is approved in the replies of the Governments of the Australian States of Queensland and Tasmania, Belgium, the Canadian Provinces of Quebec and Ontario, Chile, the United States of America and, as an ultimate objective, the Union of South Africa. The Queensland Government suggests that double pay should be given for work done on public holidays and the Chilean Government

also suggests a higher rate for overtime at night, on Sundays and on holidays. On the other hand are the Governments of Denmark, France, Norway, Poland and Switzerland, all of which consider that the minimum rate to be prescribed in the Draft Convention itself should be that prescribed in earlier Conventions, namely, 25 per cent. Both the French and Swiss Governments refer in their replies to the possibility of overtime being paid for at higher rates, and where desirable graduated according to the circumstances in which the overtime is worked, in virtue of agreements between employers and workers.

Finally, the Czechoslovak Government considers that the fixing of the rate of pay for overtime should be left to be dealt with by national laws or regulations or collective agreements.

Measures to facilitate Enforcement

(Questions 20 to 22 (Replies on pages 47 to 49)

Article 10

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required:

(*a*) to notify, by the posting of notices in a manner approved by the competent authority,

  (i) the hours at which work begins and ends;

  (ii) where work is carried on by shifts, the hours at which each shift begins and ends;

  (iii) where a rotation system is applied, a description of the system, including a time-table for each person or group of persons;

  (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks in virtue of Article 4 (*a*); and

  (v) effective rest periods as defined in Article 3 (2);

(*b*) to keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 7, 8 and 9 of this Convention and of the payments made in respect thereof;

(*c*) to notify the competent authority, before additional hours are worked in virtue of Article 6 of this Convention, of his intention to work such additional hours and of the reasons therefor.

No objection is raised in any of the replies to the provisions of clauses (*a*) and (*b*) of this Article in the draft text of 1936. Three Governments, however, prefer the slightly amended wording — "to notify, in a manner approved by the competent authority, by the posting of notices in the works or otherwise" — suggested by the Office in its commentary on the Questionnaire. These are the Governments of the Canadian Province of Ontario, France and the United States of America. The French Government also suggests the addition to clause (*a*) of a provision that where work is organised in shifts the names

of the workers in each shift should be posted up or entered in a special register. The Swiss Government proposes that the employer should be required to show, in the record referred to in clause (*b*), the number of hours of overtime worked per day.

On the question of the notification of the working of emergency overtime, dealt with in clause (*c*) of this Article, there is some division of opinion. In ten out of the fourteen replies, the text is approved as it stands. The Union Government of South Africa considers that the matter should be left to the discretion of the competent authority in each country. The Governments of Czechoslovakia, Poland and Switzerland, while agreeing that the working of emergency overtime should be notified, consider that it may not always be practicable to give notification beforehand and suggest a change in the clause to allow of notice being given after the event, though without delay.

Annual Reports on the Application of the Convention

Question 23 (Replies on pages 49 to 51)

Article 11

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning

(*a*) the decisions taken in virtue of Article 1, paragraph 3 (*g*);
(*b*) the regulations referred to in Article 4 concerning time spent in cleaning;
(*c*) the determinations made in pursuance of Article 7, paragraph 2;
(*d*) the allowances of overtime granted in virtue of Article 8;
(*e*) the extent to which overtime is worked in virtue of Article 9.

With a few exceptions, all the replies to this question approve of the terms of Article 11 of the draft text of 1936. The Czechoslovak Government and the Union Government of South Africa prefer, on the contrary, to leave the question of what information is to be given by Governments in their annual reports to be settled solely by the Governing Body. The Swiss Government suggests that clause (*d*), requiring information as to allowances of sectional overtime granted, goes too far and would burden the reports with too much detail; it also points out, with reference to clause (*e*), that there would be difficulties in obtaining returns of commercial overtime actually worked, as distinct from overtime authorised. The French Government proposes the addition of a further point on which information should be given, namely, exemptions from the application of the Convention in virtue of Article 2 (persons employed in family undertakings and persons with managerial responsibilities, though from the reply given to Question 5 it seems clear that it is primarily family undertakings that the French Government has in mind).

Safeguarding of More Favourable Conditions

Question 24 (Replies on pages 51 to 52)

Article 12

Nothing in this Convention shall affect any law, custom, or agreement between employers and workers which ensures more favourable conditions than those provided for by this Convention.

No objection is raised in any of the replies to the terms of this Article. The Canadian Provincial Government of Ontario, however, suggests the mention of awards as well as laws, customs and agreements.

Relation of the Proposed Draft Convention to the Forty-Hour Week Convention, 1935

Question 25 (Replies on pages 53 to 55)

Preamble

With two exceptions, all the replies approve of the inclusion in the preamble to the proposed Draft Convention of the phrase "Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living". The Polish Government replies in the negative, as also does the Swiss Government, which reproduces in its reply the reasoned objections it has raised in the course of previous discussions of this question.

CHAPTER III

CONCLUSIONS AND COMMENTARY ON THE PROPOSED DRAFT CONVENTION

The general tenor of the replies of Governments to the Questionnaire addressed to them has been indicated in the previous chapter.

It would, of course, have been possible for the Office to give further consideration to the question of the reduction of hours of work in the textile industry solely within the limits of the replies of Governments to the Questionnaires and to do no more than submit to the Conference a text which would be simply an adaptation of the draft text of 1936, amended in certain particulars in the light of the criticisms made by the Governments. The Office has, however, felt that it would be failing in its duty if it contented itself with this relatively simple procedure, and did not give full weight to certain other important considerations.

In the first place, it must be remembered that the Employers' members of the Textiles Committee of the Twentieth Session of the Conference abstained as a body from taking part in the elaboration of the draft text of 1936. To what extent that text might have been different if the Employers' representatives had contributed to the shaping of it, is a question to which, of course, there can be no answer, but at any rate the Office has felt that in preparing its proposals for submission to the Twenty-third Session it would be justified in reconsidering the draft text of 1936 in the light not only of the Governments' replies to the Questionnaire but also of any other available indications as to the amendments in that text which might be considered desirable with a view to making its proposals conform in detail — apart from the objection of principle which induced the Employers' representatives to abstain from taking part in detailed discussion — to the practical requirements of the industry. For this reason, therefore, the Office has considered it necessary to take into account not only the replies received from Governments but also the provisions of the Italian collective agreements and of the French Decree of 17 November 1936 to give effect to the Forty-Hour Week Law, which was promulgated subsequent to the issue of the Questionnaire to Governments.

In the second place, it must be remembered that the proposed Draft Convention for the textile industry forms part of a series of Draft Conventions by which the Conference intends to apply the general principle enunciated in the 40-Hour Week Convention adopted in 1935. In the case of two other industries, the chemical industry and the printing industry, tripartite technical meetings have been convened by decision of the Governing Body to facilitate the preparations of the Office for the discussions on the 40-hour week in these industries at the forthcoming Session of the Conference.

It is obviously desirable that there should be substantial uniformity between the Draft Conventions relating to the several industries under consideration, both as to the form and the substance, and that differences should occur only in matters for which the special conditions of the industry require special treatment. Moreover, at the preparatory technical meetings for the printing and chemical industries there appeared to be a very widespread feeling, firstly, that any Draft Convention that might be proposed should be fairly flexible in character and, secondly, that advantage should be taken of the fact that in many countries there exists a well-organised system of collective bargaining and agreement or arbitration and conciliation procedure by means of which matters of detail can be satisfactorily regulated without recourse to direct governmental intervention. There is no reason to suppose that this feeling is confined to the printing and chemical industries. On the contrary, it has found repeated expression in the debates of the Conference, and is reflected in certain of the replies of Governments to the Questionnaire on the textile industry (cf. the replies of the Czechoslovak, French and Swiss Governments to the questions concerning overtime pay). The Office has, of course, always had in mind the desirability of making full use of the machinery of collective agreement, conciliation and arbitration which in certain countries has been brought to a high degree of perfection and relieves the ordinary machinery of government of a considerable volume of work; for example, in the commentary on the draft proposals for the textile industry which the Office submitted to the Twentieth Session of the Conference attention was called to the possibility of utilising the organisations of employers and workers for dealing with the thorny problem of overtime. But while in the draft text of 1936 for the textile industry, as in the Draft Conventions for other industries already adopted or examined by the Conference, there are many references to consultation between the competent authority and the employers' and workers' organisations, no express provision has been made for the more direct utilisation of the machinery existing within the industry itself. The time would seem

to be ripe for consideration of the question whether such express provision should not be made. Accordingly, although the question was *not specifically raised in the Questionnaire* on the textile industry so that the views of Governments on it are not known, the Office has felt that it would be expedient to give the Conference a definite basis for discussion by giving a much more prominent place to collective agreements and arbitral awards in its proposals for the textile industry, as for the other industries which will be considered at the same session.

Finally, mention must be made of the convening of a tripartite technical conference on the textile industry in Washington in pursuance of the resolution proposed by the United States Government delegates and adopted by the Twentieth Session of the Conference. This conference, which is taking place in April, has, it is true, been convened not to deal directly with the question of hours of work but — to quote the resolution of the Twentieth Session of the Conference — " to consider how the work already undertaken by the International Labour Organisation in connection with the improvement of conditions in the textile industry can best be advanced and to take into account all those aspects of the textile industry which directly or indirectly may have a bearing on the improvement of social conditions in that industry ". It is not to be expected therefore that the discussions at Washington will have a direct bearing on the details of a Draft Convention on hours of work in the textile industry. Nevertheless, two Governments have expressly referred to the Washington Conference in their replies to the Questionnaire. Moreover, as will be seen from the summary of the replies in the previous chapter, the attitude of an appreciable number of Governments on the question of the desirability of adopting a 40-Hour Week Convention has been largely determined by consideration of such factors as the economic and financial position of the textile industry in their countries, deficiencies in equipment and the necessity for maintaining export trade. This is noticeably the case with the group of Governments which includes Austria, Bulgaria, Egypt, Estonia, Finland, Greece, Hungary, India, Japan, the Netherlands, Switzerland and Yugoslavia, who either express themselves as opposed to, or are not prepared to commit themselves at present to support, the adoption of a Draft Convention. The questions raised by several of these Governments will no doubt come under the consideration of the tripartite conference in Washington, and if, as may be anticipated, the discussions in Washington open up a prospect of eventual agreement upon a concerted policy directed towards bringing about a healthier condition in the world's textile industry as a whole no doubt some of the hesitancy shown by a number of Governments in regard to the adoption of the 40-hour week would

be removed. If this should prove to be the case, the support for a Draft Convention revealed in the replies to the Questionnaire might be very substantially increased.

With these general explanations, the Office proceeds to comment in detail upon the proposals which it submits for the consideration of the Twenty-third Session of the Conference. The full text of the proposals is given at the end of this chapter. Where the changes from the draft text of 1936 are considerable, the new Article or part of an Article affected is given at the beginning of the relevant passage of the commentary.

THE SCOPE OF THE DRAFT CONVENTION

(a) *As regards the Undertakings affected*

ARTICLE 1

1. This Convention applies to:
   (*a*) persons employed in an undertaking which fulfils the condition stated in paragraph 2 of this Article, including persons employed in any branch of such an undertaking which branch does not fulfil that condition; and
   (*b*) persons employed in a branch of an undertaking which branch fulfils the condition stated in paragraph 2 of this Article, even though the undertaking does not fulfil that condition.

2. The condition referred to in the preceding paragraph is that the undertaking or branch of an undertaking is engaged wholly or mainly in one or more of the series of operations delimited in paragraphs 3, 4 and 5 of this Article in the course of the manufacture of any kind of thread, yarn, twine, cord, rope, netting or felt, or any woven, piled, knitted or lacework fabric, from any one or more of the following materials: cotton, wool, silk, flax, hemp, jute, artificial silk or other synthetic fibre, or any other textile material whether of vegetable, animal or mineral origin.

Textile Undertakings and Branches

On further consideration of the terms of Article 1 of the draft text of 1936 the Office has thought it well to make certain changes in the drafting, in addition to a number of changes of substance suggested by various Governments.

In the first place, the word " undertaking " has been used instead of the word " works ", which appears in the draft text of 1936. The change is proposed partly to avoid the restrictive interpretation to which the word " works " might possibly give rise, and partly for the sake of uniformity with other Draft Conventions. This uniformity is all the more desirable because the Conference has already discussed this question of terminology and has definitely indicated that the word " undertaking " is intended to refer to a physically distinct unit, the criterion being physical distinctness and not

economic organisation.[1] Thus, if a firm has a number of factories in different places, each of them is to be regarded as a separate "undertaking" for the purpose of the application of the Convention, even though they are all under the same ownership and control; on the other hand, all the various sections which form part of a single productive organisation located in one place constitute together an undertaking, whether they be weaving sheds, power plant, offices, warehouse, etc.

It has also been thought desirable to define more exactly the position in relation to the Convention of branches of undertakings, which did not seem to be left beyond doubt by the wording of paragraphs 1 and 6 of Article 1 in the draft text of 1936. The new wording proposed for paragraph 1 (which involves slight drafting changes in paragraphs 2, 3, 4 and 5 and the deletion of paragraph 6 of the 1936 text) makes the position quite clear. If an undertaking as a whole is exclusively engaged in textile production (as defined in the Article), then of course the whole undertaking is covered by the Convention, which applies to all the persons employed therein, from the timekeeper at the gate to the clerk in the counting-house, save in so far as any of them may be exempted in virtue of later Articles. If an undertaking as a whole, though not exclusively engaged in textile production, is

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[1] The question was discussed by the Committee on the reduction of hours of work of the Eighteenth (1934) Session of the Conference, the report of which includes the following passage:

Definition of the term "undertaking"

The British Workers' member called attention to the terminological difficulties raised by the use in both proposed Draft Conventions prepared by the Office of terms such as "industrial undertaking", "enterprise", "services", "shops", etc., and asked what precisely the word "undertaking" was to be taken to mean. Ought the various branches of a single firm to be regarded as separate "undertakings" or should, on the contrary, the undertaking as a whole be regarded as a single unit?

After the representative of the Secretary-General had given an explanation on this point, the question was referred to the Drafting Committee.

Accepting the conclusion of this body, the Committee took definite note of the fact that the term "undertaking" is used in the proposed Draft Convention for industry, and the term "establishment" is used in the proposed Draft Convention for commerce and offices, in accordance with the precedent established by the Hours of Work (Industry), 1919, Convention, and the Hours of Work (Commerce) 1930, Convention, and following the common English usage.

These terms are intended, as is indeed shown by the way in which the terms "mines" and "shops" are used in Article 1 of the Industry draft and Article 5 of the Commerce and Offices draft, to refer to physically distinct units. The criterion is not economic organisation, but physical distinctness.

(International Labour Conference, Eighteenth Session, Geneva, 1934: *Record of Proceedings*, p. 560.)

nevertheless mainly engaged in such production, the position is the same : the whole undertaking is covered by the Convention, which applies to all the persons employed therein. If an undertaking as a whole is not engaged exclusively or mainly in textile production, but nevertheless has a branch which is engaged exclusively or mainly in textile production, then that branch is covered by the Convention, which applies to all the persons employed in that branch. Provision is made in the new paragraph 6 (corresponding to paragraph 8 of the draft text of 1936) for the settlement of any doubt as to the position of an undertaking or branch of an undertaking in relation to the Convention. Finally, paragraph 7 of the proposed new text, to which there was no equivalent in the draft text of 1936, makes it clear that the Convention applies to public as well as to private undertakings.

Paragraph 2 of the new text is unchanged from that of 1936, except for a slight consequential change in the opening words and for the express inclusion of "piled" fabrics to meet a point raised by the United States Government in its reply to the Questionnaire.

Textile Operations

The definition of the point of departure of the series of textile operations has been amended in three particulars in accordance with suggestions made by the Swiss Government. The clause dealing with silk has been amended by the addition of the words " or the steeping of the silk waste ", so as to cover the case of schappe and spun silk as well as reeled silk. Jute has been added to the clause dealing with flax and hemp. In the clause dealing with rags, the phrase " or the reception of the sorted rags " has been added so as to cover specifically the case of an undertaking which purchases rags already sorted by some other undertakings ; an undertaking engaged in rag sorting only will still, of course, be covered, provided that the sorting is wholly or mainly for the purpose of providing rags for textile manufacture.

Rayon Production

The Office has been obliged to give further consideration to the question of the position of undertakings or branches of undertakings engaged in the chemical production of artificial silk or other synthetic fibre. As was pointed out in the commentary on the Questionnaire three possible course are open. Rayon production might be included in a general Draft Convention relating to the textile industry or in a general Draft Convention relating to the chemical industry, or it might form the subject of a special Draft Convention by itself. The Textiles Committee of the Twentieth Session of the Conference decided, though somewhat reluctantly, not

to include rayon production within the scope of the dra text it adopted. The Governments that have replied i detail to the Questionnaire are almost equally divided i number on the question of inclusion or exclusion, but th very cogent arguments adduced more especially by the Frenc Government but also by the Swiss Government, both of whic discuss the problem in detail in their replies, seem to the Offic to weight the balance in favour of inclusion. On the othe hand, the preparatory meeting for the chemical industry wa of opinion that rayon should fall within the scope of a Dra Convention for that industry. Regarded from the purel technical point of view, synthetic fibres would undoubtedl be classified with other chemical products, but the governin consideration in the matter is not scientific or technical bu practical, and in practice the chemical production of thes fibres is so closely associated with the subsequent utilisatio of the fibres for textile purposes that the separation of from the production of other chemical products appears to b amply justified.

Since no Government has suggested the adoption of separate Draft Convention dealing with the chemical produc tion of fibres, the Office has decided to include it within th scope of the proposals for a textiles Convention. This ha necessitated a change in the clause relating to synthetic fibre in the paragraph specifying the various points of departu of the series of textile operations, so that this clause should, i is suggested, now read : " in the case of artificial silk or othe synthetic fibre, with the reception of the raw materials use for the chemical production of the fibre." This change ha also, of course, necessitated the inclusion in a later Articl of a provision to permit of the working of a 42-hour weel since in this case, for reasons which are clearly set out in th reply of the French Government, work has to be carried o continuously throughout the seven days of the week.

Hosiery Manufacture

The Swiss Government remarks that under Article 1 (5) o the draft text of 1936 undertakings making garments or othe articles from fabric not knitted within the same undertakin might be in a position of advantage as compared with thos making up fabric produced in the same undertaking, since th Convention would not apply in the former case. In its report t the Twentieth Session of the Conference the Office itself calle attention to this point in the following passage :

> Theoretically, it might be possible to separate the garment making sections of a hosiery factory from the textile sections an to exclude them from the scope of the Draft Convention fo textiles. In practice, however, such a segregation might involv reorganisation and rearrangement of premises on so considerabl a scale as to impose an unreasonable burden on employer

> Having regard to the existing suituation in this branch of the industry, and to what would seem to be the probability that the combination of the manufacture of knitted fabric with the marking up of knitted garments in the same factory may become more rather than less prevalent, the Office proposes that the Draft Convention should extend to garment-making carried on in hosiery factories. Any difficulties that might arise owing to the fact that hours of work on garment-making in hosiery factories will be reduced, while those in the exclusively garment-making factories will remain unchanged, will, of course, disappear as soon as the series of Draft Conventions on hours of work is extended to cover the garment-making industry.

No other Government has made any comment on this provision, and the Office has therefore made no change in this respect in the revised text, leaving the question to the Conference to decide.

The second clause of this paragraph — " cases in which the garment or other article is made by the same process as the fabric thereof " — is also the subject of comment in the reply of the Swiss Government, which appears inclined to doubt whether in fact there would be any such cases apart from the case of hosiery. In the case of an undertaking weaving linen but mainly engaged in making-up and embroidering linen in the form of table-cloths, sheets, pillow-cases, etc., the Convention would apply in respect of the undertaking as a whole if making-up were to be regarded as falling within the series of textile operations. It is in order to leave no room for doubt that such work is not included within the series that this paragraph is included in the Article. The matter would not, however, be left beyond doubt if it referred merely to " the making in whole or part of any garment or other article ", since, firstly, there may conceivably be cases in which it would be impracticable to distinguish between the weaving and the making or partial making of the article (e.g. towels or carpets), and, secondly, a departure from the general rule is expressly made in the case of hosiery. The retention of the second clause appears therefore to be desirable as a matter of completeness in drafting, even though the cases in which it would be of practical importance may be rare.

(b) *As regards the Persons affected*

Article 2

The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention :

(*a*) persons employed in undertakings in which only members of the employer's family are employed ; and

(*b*) persons who by reason of their special responsibilities or qualifications are customarily regarded as not subject to the normal rules governing hours of work.

Family Undertakings

The first change in this Article consists in the abandonment of the definition of the family which appears in the draft text of 1936. The change appears to be justified by considerations both of maintaining uniformity in the texts of Draft Conventions unless there is good reason for diversity and of avoiding entering into too much detail in international regulations.

Persons with Special Responsibilities

The second change is more important in form, though it is believed that it makes no real change in substance and practical effect. The draft text of 1936 provided for exemption of " persons holding positions of management who do not perform manual work ". Various versions of this formula have been discussed at different times by the Conference. The original version, in the Hours of Work (Industry) Convention, 1919, was " persons holding positions of supervision or management or employed in a confidential capacity ". In the Hours of Work (Commerce and Offices) Convention, 1930, the formula is " persons occupying positions of management or employed in a confidential capacity " ; in the Hours of Work (Coal Mines) Convention of 1931 and the Revised Convention of 1935, it is " persons engaged in supervision or management who do not ordinarily perform manual work " ; in the Hours of Work (Public Works) Convention, 1936, it is " persons occupying positions of management who do not ordinarily perform manual work ". In the proposed general Hours of Work Convention applying to industry as a whole which was submitted to the Conference by its Hours of Work Committee in 1934, the wording used was " persons occupying a position of supervision or management who do not ordinarily perform manual work ". In the text of the proposed Hours of Work (Iron and Steel Works) Convention which was approved by a Committee of the Conference in 1935 but not adopted, this formula was extended to read " persons occupying positions of supervision or management or engaged in technical control of operations who do not ordinarily perform manual work ". Uniformity would certainly be desirable in the wording used to indicate the classes of persons the exemption of whom is permitted, and on that score alone the diversity in the wordings hitherto adopted or proposed is open to objection. Two Governments have suggested the deletion of the words " who do not perform manual work " from this clause in the draft text of 1936, one of them pointing out that these words detract from, rather than add to, the force of the words "holding positions of management". If this suggestion were adopted yet another variant of the formula would be created. Moreover, to say that exemption should be allowed only in the case of " persons holding positions of

management " might be to go too far. It is necessary, as the Swiss Government points out, to take account of the position not only of general managers but also of branch or section managers. Moreover, in some industries there may be good reason to allow a certain latitude in respect of persons who cannot be regarded as managers but are nevertheless in a special position as regards the regulation of hours of work ; it was clearly this consideration which induced the Conference Committee in 1935 to bring " persons engaged in technical control of operations " within the exemption formula. On the other hand, if the formula is expanded to include persons engaged in supervision or employed in a confidential capacity, as was the case in the original draft of the general Hours of Work Convention for industry as a whole discussed by the Conference in 1934, the objection can be raised, and in fact has been raised in the Conference, that the formula becomes capable of a wide interpretation going much beyond what is intended.

The Office, after careful consideration, doubts whether it is in fact possible to devise a formula along the lines hitherto adopted which would be really satisfactory. It is not disputed in any quarter that in actual practice there are in every undertaking certain persons whose hours of work do not always and necessarily coincide with those of the main body of workers. This situation of fact is well known and recognised, and it has never been suggested that the introduction of the 40-hour week should be made the occasion for changing the relative positions of such persons and of the main body of workers as regards the observance of the general time-table of hours. On the other hand, it is clearly not the intention that the situation of any of these persons should be altered in another way by exempting them from the general regulations and then utilising their services in replacement of those of any of the main body.

The Office therefore proposes to abandon the wording used in the draft text of 1936, and suggests, in the text submitted for the textile industry as in those for the other industries to be considered by the Conference, that the matter should be dealt with by reference to the situation of fact rather than by an attempt, which is no more likely to be completely satisfactory than the earlier attempts have been, to give in international regulations precise definitions of the functions of the persons affected. The new clause proposed is : " Persons who by reason of their special responsibilities or qualifications are customarily regarded as not subject to the normal rules governing hours of work. " If this wording, or some wording on the same lines is adopted, it will be possible to grant exemption only in the case of persons who are already recognised as being in a special position ; undue extension of the exemption is avoided while practical necessities, already admitted by custom, are respected.

Definition of Hours of Work

Article 3

Paragraph 1 of this Article reproduces without change the terms of Article 3 (2) of the draft text of 1936 and does not call for comment.

Cleaning Time

Article 3 (2)

2. Where at the date of the adoption of this Convention it is the practice not to regard time spent in the cleaning or oiling of machines as part of ordinary working time, the competent authority may permit any time not exceeding one and a half hours in any week which is so spent to be disregarded for the purposes of this Convention in reckoning the hours of work of the persons concerned.

This paragraph deals with the question of cleaning time, which in the draft text of 1936 was dealt with in Article 4 (*b*). Apart from the change in position, which is due merely to drafting considerations, three other changes have been made. In the first place, the maximum allowance for cleaning time has been extended from an hour to an hour and a half per week, in view of the fact that in the case of certain kinds of machines the Decree in operation in France permits the extra half-hour. Secondly, provision is made for oiling as well as for cleaning. Thirdly, the wording of the paragraph has been strengthened so as to make it clear that the putting into operation of the 40-hour week is not to be made the occasion of a change in practice in respect of cleaning and oiling time. The position will be that if, at the present time, the practice is to add cleaning time to ordinary working time, so that, for example, a 48-hour week is actually an over-all 49½-hour week, the application of the Convention would mean reducing the over-all week to 41½ hours ; if on the other hand the 48-hour week is inclusive of cleaning time, the week would be reduced to 40 hours inclusive and could not be reduced only to 41½ hours over-all by a change in the practice as regards cleaning time.

Article 4

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average, the competent authority shall, after consultation with the principal organisations of employers and workers concerned where such exist, determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

5. Provided that the competent authority may exempt from any determination made by it in pursuance of the preceding paragraph any persons in respect of whom it is satisfied that the number of weeks over which the average may be calculated and the maximum hours that may be worked in a week are satisfactory and effectively limited by collective agreement or arbitral award.

Substantial changes have been made in this Article, which corresponds to Article 3 (1) and 4 of the draft text of 1936.

Averaging

Permission is given in paragraphs 1 and 4 for the reckoning of weekly hours of work as an average over a period instead of a strict week-by-week limitation. The replies of certain Governments (Czechoslovakia, Poland and Switzerland) suggest that averaging should be allowed. It is also allowed under the collective agreements in operation in Italy. While there are objections to averaging if the period over which the average may be calculated is unduly long, it seems to the Office that to insist on a rigid week-by-week calculation would be to go too far in the other direction. Provision has therefore been made for averaging in accordance with the general principle of allowing a certain degree of flexibility in the application of the Convention, while the necessary safeguards are secured by requiring the competent authority in each country to fix both the length of the averaging period and the maximum number of hours to be worked in any week, and to do so only after consultation with the employers' and workers' organisations concerned. The competent authority is not, of course, bound to permit averaging, and if it does so it may fix varying limits to the averaging period and the working week in accordance with the requirements of the different branches of the industry and the wishes of those concerned.

In view of the general provision for averaging, special provision for the particular case of retting operations, which was made in Article 4 (*a*) of the draft text of 1936, ceases to be necessary.

Rayon Production

Paragraphs 2 and 3 make the special provision rendered necessary by the inclusion of the chemical production of synthetic fibre within the scope of the Convention. As these processes are continuous throughout the seven days of the week it is necessary to allow for a 42-hour week instead of the normal 40 and also for averaging, so as to permit of a convenient rotation of shifts. Paragraph 3 provides that the precise determination of the processes in respect of which the 42-hour week shall apply shall be made by the competent authority in each country after consultation with the organisations concerned. The provisions of paragraph 4, concerning the limitation of the averaging period and of the working week, apply also, of course, to the 42-hour average.

Regulation by Agreement or Award

Paragraph 5 of this Article is the first of the provisions in the proposed draft text designed to enable the competent authority to permit details of regulation to be settled without direct governmental intervention. The ultimate responsibility for securing compliance with the terms of the Convention must, of course, rest on the competent authority, but this paragraph provides that in certain cases its determination of the length of the averaging period and of the maximum working week need not apply and can be replaced by the provisions of a collective agreement or arbitral award. This is permitted only in the case of persons in respect of whom the authority is satisfied that an agreement or award fixes limits which are satisfactory and also effective in practice.

General Exceptions

(a) *Preparatory, Complementary and Intermittent Work*

Article 5

Two changes from the draft text of 1936 have been made in this Article.

Clauses (*a*) and (*b*) do not differ from last year's text and are approved in virtually all the Governments' replies. Clause (*c*) — "persons employed in connection with the transport, delivery or loading or unloading of goods" — is new. In a number of countries it appears to be the practice — which, moreover, is confirmed by the provisions of regulations and collective agreements in certain cases, notably the French Decree for the textile industry — for the hours of work of persons employed in these services to be somewhat longer than those of the main body of workers, for most of whom the timetable is determined by the starting-up and stopping of the machines at which they work. To meet the practical requirements of the industry and avoid unnecessary difficulties in securing ratification of the Draft Convention it has seemed desirable to make express provision for this class of workers. In some cases it might perhaps be argued that work of this kind could be regarded as already covered by clauses (*a*) and (*b*), but such an interpretation would be open to doubt and the new clause makes the position quite clear.

The second paragraph of the Article, which is also new, is parallel with paragraph 5 of Article 4. It provides that if the competent authority is satisfied that the hours of work of the classes of workers with whom the Article deals are satisfactorily and effectively limited by the operation of a collective agreement or arbitral award, the limits so fixed may apply in place of the limits fixed by the regulations made by the competent authority in accordance with paragraph 1 of the Article.

It will be understood, of course, that the whole Article is permissive. The competent authority is not bound to allow any longer hours than the normal to be worked in these cases. If it decides to allow longer hours, the limits may be fixed either by way of regulation or by way of collective agreement or arbitral award, or by regulation in some cases and by agreement or award in others. Where the method of regulation is adopted, the competent authority is required to consult the organisations concerned. Where the method of agreement or award is adopted, the competent authority is required to satisfy itself that the agreement or award does in fact satisfactorily and effectively limit the hours of work.

(b) *Emergencies*

Article 6

Paragraph 1 of this Article reproduces exactly the wording of Article 6 in the draft text of 1936 except for the dropping of the words " and unforeseen " in the phrase " in case of urgent and unforeseen work to be done to machinery or plant ". The Textiles Committee of the Conference in 1936 added these words to the traditional formula, adopted as long ago as 1919, because it wished to emphasise the wholly exceptional character of the work in question. On further consideration, however, it seems questionable whether the words do in fact add anything to the force of the phrase. As the United States Government points out, this phrase must be read together with the preceding and succeeding phrases. These relate to " accident, actual or threatened " and to " *force majeure* ", and it follows that the phrase " urgent work to be done to machinery or plant " must be construed as relating to work required to cope with a real emergency such as a breakdown of machinery or plant. Moreover, the whole provision is governed by the phrase " only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking ". It does not seem, therefore, that any real advantage would be gained by adopting a new formula in this Draft Convention, and in the interests of uniformity the Office proposes that the traditional formula should be retained. For the same reason the Office has not thought it expedient to adopt the drafting change in the French text suggested by the Swiss Government.

The second paragraph of this Article appeared as part of Article 10 in the draft text of 1936. That Article deals with matters of routine and relates to notices to be posted and records to be kept by the employer in the undertaking. As this particular provision relates to emergencies and to communication with the competent authority, it would seem to be more appropriately placed in the Article dealing with emergencies. At the same time, a slight relaxation of the rigidity of the

that the circumstances justifying overtime, which in any case would be relatively rare, will hardly arise at all where bleaching, dyeing and finishing operations are normally carried out by a succession of shifts.

Paragraph 2 of the Article is in exactly the same terms as appeared in the draft text of 1936.

Paragraph 3 makes provision, similar to that in Articles 4 (5) and 5 (2) for the utilisation of collective agreements and arbitral awards for the regulation of details concerning this form of overtime, in cases where the competent authority is satisfied that such regulation is satisfactory and effective.

The Office has felt obliged to drop the provision for payment of at least 50 per cent. more than the normal rate for overtime worked in virtue of this Article. Not only is there a marked division of opinion among the Governments as to whether the increase in pay for any overtime should be fixed at 50 per cent. or at 25 per cent. ; in a number of countries no specified increase in pay is imposed as a legal obligation in the case of overtime of this particular kind, the matter being left to be dealt with in accordance with agreement or custom. The stipulation of a specified minimum increase of pay in this Article might therefore place difficulties in the way of the adoption and ratification of the Draft Convention. This seems all the more undesirable since overtime of this kind is not likely to be frequent and the conditions under which it is worked, including conditions as to the rate of remuneration, are matters which can very well be settled by the collective agreements or arbitral awards to which reference is made in paragraph 3.

(b) *Overtime to ensure Full-time Working in all Sections*

ARTICLE 8

Except as regards the minimum rate of pay for overtime, no change has been made in this Article from the draft text of 1936. Most of the replies of Governments approve of the proposed provision for overtime working in one section of an undertaking where this is necessary to enable sections engaged in subsequent operations to work a full normal week. The French Government criticises the proposal on the ground that either the necessity for working such overtime should be avoided by the installation of more plant in the under-equipped sections or, if overtime is still necessary, it should be regarded as overtime required to meet cases of exceptional pressure of work and therefore coming under the provisions of the next Article. While the Office appreciates the force of this criticism, it does not feel that the abandonment of the Article would be wise. There are cases in which the lack

of balance due to a deficiency in equipment is only occasional, being due, for example, to a change in the count of the yarn to be spun. Moreover, even if the deficiency is of a more permanent character, it would seem to be doubtfully wise to require the employer to incur expenditure on the installations of more plant just at a time when the reduction of hours of work is being brought into operation. This situation might perhaps be met, as the French Government suggests, by limiting the provisions of this Article to a transitional period, but the difficulty here would be to fix a period which would be neither too long nor too short. It would seem, therefore, that the matter must be left to the discretion of the competent authority, and it was for this reason that in paragraph 4 of the draft text of 1936 special reference was made to the attachment of conditions to the grant of an allowance of overtime " with a view to securing a progressive reduction in the amount of overtime ".

As regards the amount of overtime to be allowed, three Governments suggest a wider latitude in their replies, but in view of the general agreement upon the necessity for a strict limitation of overtime of this kind the Office has maintained the limits decided upon by the Textiles Committee of the Conference in 1936.

Objection is taken by a few Governments to the requirement that the competent authority must consult the employers' and workers' organisations concerned before granting an allowance of overtime under this Article. It may be observed, however, that the case for consultation is here particularly strong in view of the special character of this overtime. It is in the interests both of other employers and of all the workers that no individual employer should be able to work such overtime unless the conditions in his undertaking render that course really necessary, and the views of the employers' and workers' organisations would give very valuable guidance to the competent authority in deciding whether or not to grant an application for an allowance. If the allowance is granted, it will, of course, be for the employer concerned to decide exactly when and how it shall be utilised, subject to the limitations of sixty hours in any year and four hours in any week laid down in paragraph 2.

As was pointed out in the commentary on Article 7, the opinion of Governments is much divided on the question of the minimum rate of overtime pay to be specified in the Draft Convention. For the sake of uniformity with other Conventions and with the provisions in force in a number of countries, the Office proposes that the increase to be specified should be 25 per cent. and not 50 per cent. This is, of course, a minimum, and there is nothing to prevent a higher rate being prescribed by national laws or regulations or fixed by collective agreement or arbitral award.

(c) *Overtime for Commercial Purposes*

Article 9

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded subject to the conditions that:

(*a*) all time worked in virtue of this Article shall be regarded as overtime and shall be remunerated at not less than one-and-a-quarter times the normal rate;

(*b*) no person shall be employed in virtue of this Article for more than seventy-five hours of overtime in any year; and

(*c*) there shall be no consistent working of overtime.

2. The competent authority shall only grant such permission in accordance with regulations made after consultation with the organisations of employers and workers concerned where such exist.

3. The regulations referred to in the preceding paragraph shall prescribe:

(*a*) the procedure to be followed by the employer for obtaining permission to have recourse to work overtime in virtue of this Article;

(*b*) the maximum number of hours for which the authority may grant such permission and the minimum rate of remuneration to be paid for such hours.

4. National laws or regulations may provide that, subject to fulfilment of the conditions stated in paragraph 1 of this Article, the limits of hours authorised by the preceding Articles may be exceeded in virtue of any collective agreement or arbitral award by means of which, in the opinion of the competent authority, recourse to overtime is satisfactorily and effectively regulated.

This Article differs appreciably from Article 9 of the draft text of 1936 but, except for the reduction of the specified minimum rate of overtime pay and an increase in the maximum amount of overtime that may be worked, the changes are in form rather than in substance. On reconsideration of the 1936 text of this Article in the light of the observation made by several Governments in their replies and of the provisions of the arrangements actually in force in various countries, and in pursuance of the general principle of avoiding rigidity where it is not essential, the Office has come to the conclusion that it would be well to refrain from attempting to specify in detail either the particular cases in which overtime (other than that already provided for in the special cases dealt with in previous Articles) should be allowed or the particular procedure to be adopted for authorising the working of overtime. The Article has accordingly been recast. Paragraph 1 lays down the general conditions — a minimum increase in pay of 25 per cent.; an annual limit of 75 hours; and no consistent working of overtime. In paragraphs 2 and 3 provision is made for details to be settled by the competent authority. This is to be done by means of regulations made after consultation with the employers' and workers' organisations. These regulations must prescribe the procedure by which the employer will obtain permission to work overtime.

They must also prescribe the maximum number of hours of overtime for which permission may be given, which may, of course, vary according to the special requirements of various branches of the industry. Finally, they must prescribe the minimum rate of overtime pay, which again may vary according to the special circumstances of different branches of the industry, to the time at which the overtime is worked (e.g. at night or on Sundays and holidays), or to the amount of overtime worked (e.g. higher rates after the first two hours on any day), and which may be more than the minimum specified by the Convention itself. These provisions are, it is thought, more satisfactory than the corresponding provisions in the draft text of 1936. Attention is called to the necessity for preventing the consistent working of overtime and the means of carrying out this requirement, namely, appropriate regulations, are indicated in paragraphs 2 and 3 of the Article. At the same time, details of procedure are left to be settled nationally.

Further flexibility is given by paragraph 4 of the new text, which as in Articles 4 (5), 5 (2) and 7 (3) allows for regulation by collective agreement or arbitral award. Two conditions are imposed: the competent authority must be satisfied that an agreement or award does satisfactorily and effectively regulate recourse to overtime, and the general conditions laid down in paragraph 1 must be observed.

The reasons for fixing the minimum rate of increase in pay for overtime at 25 per cent. instead of 50 per cent. have been given in the commentary on the preceding Article.

The annual limit fixed in this Article as it stood in the draft text of 1936 was 60 hours. This has been raised to 75 hours, since the lower figure appeared likely to put difficulties in the way of the adoption and ratification of the Convention.

The French Government's objection to the limitation of overtime for the individual worker instead of for the undertaking or for a section or a category of workers is, it is thought, met by the new form given to this Article. The method of limiting overtime adopted in the French Decree, which is a combination of both an annual limit and a daily limit to the extra time during which an undertaking may continue to operate, does in fact result in effective limitation of the overtime for the individual. But to prescribe a daily limit in the Draft Convention would be to introduce an undesirable degree of rigidity. Moreover, it would be difficult to secure agreement upon an appropriate limitation — the three Governments that suggest a limitation for a period less than a year in their replies to the Questionnaire all suggest different limits, while a fourth suggests leaving the matter to the competent authority. The best course therefore seems to be to leave it to national laws or regulations (or to collective agreements or arbitral awards) to determine the precise method by which

individual limitation is to be secured. This is the course taken in paragraphs 2 and 4 of this Article, which enable the method adopted in the French Decree or any other equally effective method to be utilised.

Measures to facilitate Enforcement

Article 10

This Article does not differ from the draft text of 1936 except for the transfer to Article 6 of the reference to emergency work, already explained, and the slight drafting change at the beginning of clause (*a*) which was specifically approved by a certain number of Governments.

Suspension during a National Emergency

Article 11

Any Member may suspend the operation of the provisions of this Convention during any emergency which endangers the national safety.

This Article is new. It is based upon provisions which appear in the legislation of certain countries relating to hours of work and has been introduced lest the existence of such provisions should constitute an obstacle to ratification of the Draft Convention. It is, of course, to be hoped that an emergency endangering the national safety will never occur, so that it will never be necessary for any State to have recourse to the power of temporary suspension given by the Article.

Transitional Arrangements

Article 12

During a period which shall not exceed three years from the coming into force of this Convention for the Member concerned, the competent authority may approve transitional arrangements in virtue of which:

(*a*) the reduction of hours of work to the limits authorised by the preceding Articles may be accomplished by stages during the said period;

(*b*) specified classes of workers or undertakings may be exempted from all or any of the provisions of the Convention during the said period.

No provision was made in the draft text of 1936 to enable hours of work to be reduced by stages in cases where immediate application in full of the provisions of the Convention would give rise to serious difficulty, and the views of the Governments on the matter are, of course, not known, since it was not raised in the Questionnaire.

The new Article now proposed by the Office makes provision for transitional arrangements of two kinds. Under

clause (*a*) hours of work may be reduced from the existing level to the Convention standard of 40 a week by successive stages instead of at one stroke — for example, first from 48 hours to 44 hours and then to 40 hours. Under clause (*b*), which deals more especially with cases where there is a shortage of a particular class of workers and time is required for the training of new workers or where there is some special difficulty affecting a particular class of undertakings, a temporary exemption for such workers or undertakings is permitted. A time limit is fixed of three years from the date of the coming into force of the Convention for the Member concerned; at the end of that period, the provisions of the Convention must be applied in full with only such exemptions and exceptions as are permitted by the other Articles.

The permission thus given for progressive application of the shorter working week where the circumstances so require should, it is thought, facilitate the ratification of the Draft Convention. It might happen, for example, that a State would be prepared to enforce the 40-hour week at once in some branches of the industry but would feel that a period for readjustment was necessary for other branches. In such a case, the State would not be obliged to delay its ratification until conditions were ripe in the whole of the industry, but could ratify at once, apply the provisions of the Convention forthwith and in full to the branches of the industry which presented no difficulty and make use of a transitional period, not exceeding three years, for ensuring the progressive adaptation of conditions in the other branches of the industry.

Annual Reports

Article 13

This Article includes four new clauses which did not appear in the draft text of 1936.

Dealing with the question of family undertakings in its comment on Article 2 of the draft text of 1936, the French Government suggested that such undertakings might be subjected by national laws or regulations to a system substantially equivalent to, but more flexible than, that imposed on larger undertakings. A provision of this kind would have to be purely permissive and the Office has not thought it desirable to deal with the matter in Article 2 itself. But it would certainly be useful, for the purposes of international comparison, if information were given by States as to whether they have exempted family undertakings and, if so, whether they have attached conditions to the grant of exemption. It may also be thought desirable to obtain similar information as to the other exemptions permitted by Article 2. Clause (*b*) of Article 13 makes provision accordingly.

In view of the fact that Article 5 (1) now has a somewhat wider scope than in the 1936 text and provides for exemptions by regulations fixing longer hours of work in the cases dealt with in the Article, it would seem that it might be desirable to provide that the annual reports should include information as to these regulations. Clause (*e*) is included for this purpose. Clause (*i*), provides for information being given concerning collective agreements and arbitral awards. Since the proposed Draft Convention permits regulation by agreements or awards of such important matters as averaging, permanent exceptions, and overtime it is clearly necessary that information concerning them should be given in the annual reports.

Safeguarding Clause

Article 14

The only change in this Article from the draft text of 1936 is the inclusion of the word "award". This completion of the provision follows the precedent of the Hours of Work (Public Works) Convention, 1936.

Preamble

The preamble to the proposed Draft Convention, including the reference to the Forty-Hour Week Convention, 1936, reproduces, in accordance with the views expressed in nearly all the replies to the Questionnaire, the preamble of the draft text of 1936.

PROPOSED DRAFT CONVENTION CONCERNING THE REDUCTION OF HOURS OF WORK IN THE TEXTILE INDUSTRY

The General Conference of the International Labour Organisation,

Having met at Geneva in its Twenty-third Session on 3 June 1937;

Considering that the question of the reduction of hours of work in the textile industry is the second item on the Agenda of the Session:

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living;

Considering it to be desirable that this principle should be applied by international agreement to the textile industry:

adopts this . . . . day of June one thousand nine hundred and thirty-seven the following Draft Convention . . . . :

ARTICLE 1

1. This Convention applies to —

(a) persons employed in an undertaking which fulfils the condition stated in paragraph 2 of this Article, including persons employed in any branch of such an undertaking which branch does not fulfil that condition;

(b) persons employed in a branch of an undertaking which branch fulfils the condition stated in paragraph 2 of this Article, even though the undertaking does not fulfil that condition.

2. The condition referred to in the preceding paragraph is that the undertaking or branch of an undertaking is engaged wholly or mainly in one or more of the series of operations delimited in paragraphs 3, 4 and 5 of this Article in the course of the manufacture of any kind of thread, yarn, twine, cord, rope, netting or felt, or any woven, piled, knitted or lace-work fabric from any one or more of the following materials: cotton, wool, silk, flax, hemp, jute, artificial silk or other

AVANT-PROJET DE CONVENTION CONCERNANT LA RÉDUCTION DE LA DURÉE DU TRAVAIL DANS L'INDUSTRIE TEXTILE

La Conférence générale de l'Organisation internationale du Travail,

S'étant réunie à Genève, le 3 juin 1937, en sa vingt-troisième session ;

Considérant que la question de la réduction de la durée du travail dans l'industrie textile constitue la deuxième question à l'ordre du jour de la session ;

Confirmant le principe consacré dans la convention des quarante heures, 1935, comportant aussi le maintien du niveau de vie des travailleurs ;

Considérant qu'il est désirable que ce principe soit appliqué par accord international à l'industrie textile ;

adopte, ce ..... jour de juin mil neuf cent trente-sept, le projet de convention ci-après..... :

Article 1

1. La présente convention s'applique :

a) aux personnes occupées dans tout établissement qui remplit la condition stipulée au paragraphe 2 du présent article, y compris les personnes occupées dans toute branche dudit établissement, alors même que cette branche ne remplit pas ladite condition ;

b) aux personnes occupées dans toute branche d'établissement qui remplit la condition stipulée au paragraphe 2 du présent article, même lorsque les établissements dont dépendent lesdites branches ne remplissent pas ladite condition.

2. La condition dont il est fait mention dans le paragraphe précédent est que l'établissement ou branche d'établissement ait son activité portée exclusivement ou principalement sur une ou plusieurs des opérations comprises dans les limites définies aux paragraphes 3, 4 et 5 du présent article, relatives à la fabrication de tous genres de fils, filés, ficelles, cordes, cordages, filets, feutres, tapis ou de tous genres de tissus ou réseaux constitués des matières suivantes, seules ou mélan-

synthetic fibre, or any other textile material whether of vegetable, animal or mineral origin.

3. The series of operations referred to in paragraph 2 of this Article begins —

(*a*) in the case of cotton, with the reception of the bales of ginned cotton for breaking up and cleaning ;

(*b*) in the case of wool, with the reception of the raw wool for sorting and cleaning (excluding the process of anthrax disinfection) ;

(*c*) in the case of silk, with the realing of the silk from the cocoon or the steeping of the silk waste ;

(*d*) in the case of flax, jute and hemp, with the operation of retting, except where this operation is effected as work accessory to that of an agricultural undertaking ;

(*e*) in the case of artificial silk or other synthetic fibre, with the reception of the raw materials used for the chemical production of the fibre ;

(*f*) in the case of rags, with the sorting of the rags or the reception of the sorted rags ; and

(*g*) in the case of any other textile material, with the operation prescribed by the competent authority as corresponding to the operations set out above.

4. The series of operations referred to in paragraph 2 of this Article ends with the packing and despatch of the products specified in that paragraph.

5. The series of operations referred to in paragraph 2 of this Article includes the making in whole or in part of any garment or other article only in the following cases :

(*a*) the case of hosiery manufacture ; and

(*b*) cases in which the garment or other article is made by the same process as the fabric thereof.

6. In any case in which it is doubtful whether an undertaking or branch of an undertaking fulfils the condition stated in paragraph 2 of this Article, the question shall be determined by the competent authority after consultation with the organisations of employers and workers concerned where such exist.

7. This Convention applies to persons employed in both public and private undertakings.

gées : coton, laine, soie, lin, chanvre, jute, rayonne et autres fibres synthétiques, et toutes autres matières textiles d'origine végétale, animale ou minérale.

3. La série des opérations visées au paragraphe 2 du présent article commence :

a) dans le cas du coton, avec la réception des balles de coton égrené, en vue de l'ouverture des balles et du nettoyage du coton ;
b) dans le cas de la laine, avec la réception de la laine brute, en vue du triage et du nettoyage (à l'exception des opérations de désinfection anticharbonneuse) ;
c) dans le cas de la soie, avec le dévidage des cocons ou avec la macération des déchets ;
d) dans le cas du lin, du jute et du chanvre, avec le rouissage pour autant que cette opération n'est pas effectuée comme travail annexe à celui d'un établissement agricole ;
e) dans le cas de la rayonne ou autres fibres synthétiques, avec la réception des matières premières qui servent à la production chimique de la fibre ;
f) dans le cas de chiffons, avec le triage des chiffons ou la réception des chiffons triés ;
g) dans le cas de toute autre matière textile, avec l'opération à déterminer par l'autorité compétente comme correspondant aux opérations indiquées ci-dessus.

4. La série des opérations visées au paragraphe 2 du présent article se termine avec l'emballage et l'expédition des produits mentionnés à ce paragraphe.

5. La série des opérations visées au paragraphe 2 du présent article ne comprend la fabrication totale ou partielle de vêtements ou d'autres articles que dans les cas suivants :
a) cas de la bonneterie ;
b) cas où les vêtements ou autres articles sont confectionnés suivant un processus commun à la fabrication des produits dont sont composés ces vêtements ou articles.

6. Dans tous les cas où il n'apparaît pas certain qu'un établissement ou une branche d'établissement remplit la condition stipulée au paragraphe 2 du présent article, la question doit être tranchée par l'autorité compétente, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe.

7. La présente convention s'applique aux personnes employées dans les établissements tant publics que privés.

Article 2

The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention —

(*a*) persons employed in undertakings in which only members of the employer's family are employed;

(*b*) persons who by reason of their special responsibilities or qualifications are customarily regarded as not subject to the normal rules governing hours of work.

Article 3

1. For the purpose of this Convention the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

2. Where at the date of the adoption of this Convention it is the practice not to regard time spent in the cleaning or oiling of machines as part of ordinary working time, the competent authority may permit any time not exceeding one and a half hours in any week which is so spent to be disregarded in reckoning for the purposes of this Convention the hours of work of the persons concerned.

Article 4

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average, the competent authority shall, after consultation with the principal organisations of employers and workers concerned where such exist, determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

ARTICLE 2

L'autorité compétente peut, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, exempter de l'application de la présente convention :

a) les personnes employées dans les établissements où sont seuls occupés les membres de la famille de l'employeur ;

b) les personnes qui, en raison de leur responsabilité ou de leur compétence particulières, sont considérées, selon la coutume, comme n'étant pas soumises aux règles normales sur la durée du travail.

ARTICLE 3

1. Aux fins de la présente convention, l'expression « durée du travail » signifie le temps pendant lequel le personnel est à la disposition de l'employeur, et ne comprend pas les repos pendant lesquels il n'est pas à sa disposition.

2. Si à la date de l'adoption de la présente convention, il est de pratique courante de ne pas considérer le temps consacré au nettoyage ou au graissage des machines comme faisant partie des heures régulières de travail, l'autorité compétente peut permettre qu'aux fins de la présente convention le temps consacré auxdits travaux, sous réserve qu'il n'excède pas une heure et demie par semaine, ne soit pas compris dans le calcul de la durée du travail des personnes intéressées.

ARTICLE 4

1. La durée du travail des personnes auxquelles s'applique la présente convention ne doit pas dépasser en moyenne quarante heures par semaine.

2. Pour les personnes qui travaillent par équipes successives à des travaux dont le fonctionnement continu doit, en raison même de la nature du travail, être nécessairement assuré, sans interruption à aucun moment du jour, de la nuit et de la semaine, la durée hebdomadaire du travail peut atteindre une moyenne de quarante-deux heures.

3. L'autorité compétente déterminera, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, les travaux auxquels s'applique le paragraphe 2 du présent article.

4. Quand la durée du travail est calculée d'après une durée moyenne, l'autorité compétente doit, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, fixer le nombre de semaines sur lequel cette durée moyenne peut être calculée, ainsi que le nombre maximum des heures de travail hebdomadaires.

5. Provided that the competent authority may exempt from any determination made by it in pursuance of the preceding paragraph any persons in respect of whom it is satisfied that the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in a week are satisfactorily and effectively limited by collective agreement or arbitral award.

Article 5

1. The competent authority may, by regulations made after consultation with the organisations of employers and workers concerned where such exist, provide that the limits of hours authorised by the preceding Article may be exceeded to an extent prescribed by such regulations in the case of —

(*a*) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, branch or shift;

(*b*) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls;

(*c*) persons employed in connection with the transport, delivery or loading or unloading of goods.

2. National laws or regulations may permit the limits of hours authorised by the preceding Article to be exceeded in the cases enumerated in the preceding paragraph of this Article to the extent fixed by any collective agreement or arbitral award by means of which, in the opinion of the competent authority, the hours that may be worked in the said cases are satisfactorily and effectively limited.

Article 6

1. The limits of hours authorised by the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

(*a*) in the case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant or in case of *force majeure*;

5. Toutefois, l'autorité compétente peut exempter de l'application de toute prescription édictée en vertu du paragraphe précédent les personnes pour lesquelles elle admet que le nombre de semaines, sur lequel la durée moyenne peut être calculée, ainsi que le nombre maximum des heures de travail hebdomadaire se trouvent limités d'une façon satisfaisante et effective par des contrats collectifs ou des sentences arbitrales.

Article 5

1. L'autorité compétente peut, par des règlements pris après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, permettre de dépasser les limites des heures de travail autorisées en vertu de l'article précédent, dans une mesure fixée par lesdits règlements, dans les cas suivants :

a) dans le cas de personnes employées à des travaux préparatoires ou complémentaires qui doivent être nécessairement exécutés en dehors des limites assignées au travail général de l'établissement, de la branche d'établissement ou de l'équipe ;

b) dans le cas de personnes employées à des occupations qui, par leur nature, comportent de longues périodes d'inactivité pendant lesquelles ces personnes n'ont à déployer ni activité matérielle ni attention soutenue, ou ne restent à leur poste que pour répondre à des appels éventuels ;

c) dans le cas de personnes employées à des opérations se rapportant au transport, à la livraison, au chargement ou au déchargement de marchandises.

2. La législation nationale peut permettre, dans les cas énumérés au paragraphe précédent du présent article, le dépassement des limites des heures de travail autorisées en vertu de l'article précédent, dans la mesure fixée par tout contrat collectif ou toute sentence arbitrale qui, de l'avis de l'autorité compétente, limite d'une façon satisfaisante et effective les heures de travail qui peuvent être effectuées dans de tels cas.

Article 6

1. Les limites des heures de travail autorisées en vertu des articles précédents peuvent être dépassées, mais uniquement dans la mesure nécessaire pour éviter qu'une gêne sérieuse ne soit apportée à la marche normale de l'établissement :

a) en cas d'accident survenu ou imminent ou en cas de travaux d'urgence à effectuer aux machines ou à l'outillage, ou en cas de force majeure ;

(*b*) in order to make good the unforeseen absence of one or more members of a shift.

2. The employer shall notify the competent authority without delay of all time worked in virtue of this Article and of the reasons therefor.

ARTICLE 7

1. The limits of hours authorised by the preceding Articles may be exceeded in cases where the continued presence of particular persons is necessary for the completion of a bleaching, dyeing, finishing or other operation, or of a succession of such operations, which for technical reasons cannot be interrupted without damage to the material worked and which by reason of exceptional circumstances it has not been possible to complete within the normal limit of hours.

2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which and the conditions subject to which the preceding paragraph applies and the maximum number of hours which may be worked in virtue of that paragraph by the persons concerned.

3. Provided that the competent authority may exempt from any determination made by it in pursuance of the preceding paragraph persons in respect of whom it is satisfied that the matters dealt with in that paragraph are satisfactorily and effectively regulated by collective agreement or arbitral award.

ARTICLE 8

1. Upon application by an employer, the competent authority may, after consultation with the organisations of employers and workers concerned where such exist, grant an allowance of overtime for specified classes of persons in exceptional cases in which overtime on one or more operations is necessary in order to enable the workers engaged in subsequent operations in the same undertaking to be employed up to the authorised limits of hours.

2. The competent authority shall determine, after consultation with the organisations of employers and workers concerned where such exist, the number of hours of overtime which may be worked in virtue of paragraph 1 of this Article, so however that no such allowance shall permit of any person being employed for more than sixty hours

b) pour faire face à l'absence imprévue d'une ou plusieurs personnes d'une équipe.

2. L'employeur doit faire connaître, sans délai, à l'autorité compétente toutes heures de travail effectuées en vertu du présent article et les raisons qui les justifient.

Article 7

1. Les limites des heures de travail prévues aux articles précédents peuvent être prolongées pour certaines personnes dont la présence continue est nécessaire pour l'achèvement des opérations de blanchiment, teinture, finissage ou autre opération, ou d'une série de telles opérations, qui pour des raisons techniques ne peuvent être interrompues sans détérioration des produits en cours de fabrication, et que par suite de circonstances exceptionnelles il n'a pas été possible d'achever dans l'horaire normal de travail.

2. L'autorité compétente doit déterminer, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, les opérations auxquelles s'applique le paragraphe précédent et les conditions dans lesquelles ledit paragraphe doit s'appliquer ainsi que le nombre maximum des heures pendant lesquelles le personnel envisagé peut travailler en vertu dudit paragraphe.

3. Toutefois, l'autorité compétente peut exempter de l'application de toute prescription édictée en vertu du paragraphe précédent les personnes pour lesquelles elle admet que les questions traitées dans ledit paragraphe se trouvent réglées d'une manière satisfaisante et effective par des contrats collectifs ou des sentences arbitrales.

Article 8

1. A la demande d'un employeur, l'autorité compétente peut accorder, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, un crédit d'heures supplémentaires pour des catégories de personnes déterminées, dans les cas exceptionnels ou des heures supplémentaires sont nécessaires pour effectuer une ou plusieurs opérations afin de permettre aux ouvriers, occupés dans le même établissement à des opérations ultérieures, d'être employés jusqu'aux limites autorisées.

2. L'autorité compétente déterminera, après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe, le nombre maximum des heures supplémentaires pouvant être effectuées en vertu du parapraphe 1 du présent article, sous réserve qu'une telle décision n'entraîne pas l'emploi d'une personne pendant plus de soixante

of such overtime in any year or for more than four hours of such overtime in any week.

3. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

4. The competent authority may attach to the grant of an allowance of overtime such conditions as it deems expedient with a view to securing a progressive reduction in the amount of overtime.

ARTICLE 9

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded subject to the conditions that —

(*a*) all time worked in virtue of this Article shall be regarded as overtime and shall be remunerated at not less than one-and-a-quarter times the normal rate ;

(*b*) no person shall be employed in virtue of this Article for more than seventy-five hours of overtime in any year ; and

(*c*) there shall be no consistent working of overtime.

2. The competent authority shall only grant such permission in accordance with regulations made after consultation with the organisations of employers and workers concerned where such exist.

3. The regulations referred to in the preceding paragraph shall prescribe —

(*a*) the procedure to be followed by the employer for obtaining permission to work overtime in virtue of this Article ;

(*b*) the maximum number of hours for which the competent authority may grant such permission and the minimum rate of remuneration to be paid for such hours.

4. National laws or regulations may provide that, subject to fulfilment of the conditions stated in paragraph 1 of this Article, the limits of hours authorised by the preceding Articles may be exceeded in virtue of any collective agreement or arbitral award by means of which, in the opinion of the competent authority, recourse to overtime is satisfactorily and effectively regulated.

de travail supplémentaire par an ou pendant plus de quatre heures de travail supplémentaire par semaine.

3. Les heures supplémentaires effectuées en vertu des dispositions du présent article doivent être rémunérées à un taux majoré d'au moins vingt-cinq pour cent par rapport au salaire normal.

4. L'autorité compétente peut subordonner l'octroi d'un crédit d'heures supplémentaires à toutes conditions qu'elle estimera opportunes en vue d'obtenir la diminution progressive du nombre de ces heures.

Article 9

1. L'autorité compétente peut permettre le dépassement des limites des heures de travail autorisées en vertu des articles précédents, sous réserve des conditions suivantes :

a) toute heure de travail effectuée en vertu du présent article doit être considérée comme heure supplémentaire et rémunérée à un taux majoré d'au moins vingt-cinq pour cent par rapport au salaire normal ;

b) aucune personne ne peut, en vertu du présent article, être employée plus de soixante-quinze heures supplémentaires par an ;

c) il ne doit pas être fait un usage constant des heures supplémentaires.

2. L'autorité compétente ne doit accorder une telle autorisation que conformément à des règlements pris après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe.

3. Les règlements mentionnés au paragraphe précédent doivent prescrire :

a) la procédure à suivre par l'employeur pour obtenir l'autorisation d'effectuer des heures supplémentaires en vertu du présent article ;

b) le nombre maximum d'heures supplémentaires pour lesquelles l'autorité compétente peut accorder une telle autorisation ainsi que le taux minimum de rémunération qui doit être payé pour ces heures supplémentaires.

4. La législation nationale peut prévoir, sous réserve que les conditions stipulées au paragraphe 1 du présent article se trouvent remplies, que les limites des heures de travail autorisées par les articles précédents soient dépassées en vertu de tout contrat collectif ou de toute sentence arbitrale qui, de l'avis de l'autorité compétente, réglemente d'une façon satisfaisante et effective le recours aux heures supplémentaires.

ARTICLE 10

In order to facilitate the effective enforcement of the provisions of this Convention every employer shall —

(*a*) notify in a manner approved by the competent authority, by the posting of notices or otherwise,

(i) the hours at which work begins and ends ;

(ii) where work is carried on by shifts, the hours at which each shift begins and ends ;

(iii) where a rotation system is applied, a description of the system including a time-table for each person or group of persons ;

(iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks ; and

(v) effective rest periods as defined in Article 3 ; and

(*b*) keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 7, 8 and 9 of this Convention and of the payments made in respect thereof.

ARTICLE 11

Any Member may suspend the operation of the provisions of this Convention during any emergency which endangers the national safety.

ARTICLE 12

During a period which shall not exceed three years from the coming into force of this Convention for the Member concerned, the competent authority may approve transitional arrangements in virtue of which —

(*a*) the reduction of hours of work to the limits authorised by the preceding Articles may be accomplished by stages during the said period ;

(*b*) specified classes of workers or undertakings may be exempted from all or any of the provisions of the Convention during the said period.

Article 10

En vue de faciliter l'application effective des dispositions de la présente convention, chaque employeur doit :

a) faire connaître selon un mode approuvé par l'autorité compétente, au moyen d'affiches apposées ou autrement :

i) les heures auxquelles commence et finit le travail ;

ii) si le travail s'effectue par équipes, les heures auxquelles commence et finit le tour de chaque équipe ;

iii) s'il est fait application d'un système de roulement, une description de ce système, y compris un horaire de travail pour chaque personne ou groupe de personnes ;

iv) les dispositions prises dans les cas où la durée hebdomadaire moyenne du travail est calculée sur plusieurs semaines ;

v) les repos effectifs tels qu'ils sont définis dans l'article 3 ;

b) inscrire sur un registre, selon le mode approuvé par l'autorité compétente, toutes les heures de travail qui sont effectuées, en vertu des articles 7, 8 et 9 de la présente convention, ainsi que le montant de leur rétribution.

Article 11

Tout Membre peut suspendre l'application des dispositions de la présente convention pendant la durée de tout événement présentant un danger pour la sécurité nationale.

Article 12

Pendant une période de trois ans au plus à compter de l'entrée en vigueur de la présente convention à l'égard de chaque Membre, l'autorité compétente peut approuver des arrangements transitoires autorisant :

a) la réduction, par étapes, pendant ladite période, de la durée du travail jusqu'aux limites autorisées en vertu des articles précédents ;

b) des exemptions partielles ou totales des dispositions de la présente convention, pendant ladite période, concernant certaines catégories de travailleurs ou d'établissements.

ARTICLE 13

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning —

(*a*) decisions taken in virtue of Article 1, paragraph 3 (*g*) ;

(*b*) exemptions made in virtue of Article 2 and any conditions subject to which such exemptions are made ;

(*c*) any recourse to the provisions of Article 3, paragraph 2 ;

(*d*) determinations made in pursuance of Article 4, paragraph 4 ;

(*e*) regulations made in virtue of Article 5, paragraph 1 ;

(*f*) determinations made in pursuance of Article 7, paragraph 2 ;

(*g*) allowances of overtime granted in virtue of Article 8 ;

(*h*) the extent to which overtime is worked in virtue of Article 9 ; and

(*i*) any collective agreements or arbitral awards relied upon in virtue of Article 4, paragraph 5, Article 5, paragraph 2, Article 7, paragraph 3, or Article 9, paragraph 4, and the grounds upon which the competent authority regards such agreements or awards as satisfactory and effective.

ARTICLE 14

Nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions than those provided for by this Convention.

Article 13

Les rapports annuels soumis par les Membres sur l'application de la présente convention doivent comprendre des renseignements complets concernant notamment :

a) les décisions prises en vertu de l'article 1, paragraphe 3 (*g*) ;

b) les exemptions autorisées en vertu de l'article 2 et les conditions dans lesquelles sont accordées ces exemptions ;

c) tout recours aux dispositions de l'article 3, paragraphe 2 ;

d) les déterminations opérées conformément à l'article 4, paragraphe 4 ;

e) les règlements pris en vertu de l'article 5, paragraphe 1 ;

f) les déterminations opérées conformément à l'article 7, paragraphe 2 ;

g) les crédits d'heures supplémentaires accordés en vertu de l'article 8 ;

h) la limite dans laquelle il est fait usage des heures supplémentaires en vertu de l'article 9 ;

i) tout contrat collectif ou toute sentence arbitrale dont il serait fait usage en vertu des articles 4 (paragraphe 5), 5 (paragraphe 2), 7 (paragraphe 3), 9 (paragraphe 4) ainsi que les raisons pour lesquelles l'autorité compétente considère de tels contrats collectifs ou de telles sentences comme satisfaisants et effectifs.

Article 14

Rien dans la présente convention n'affecte toute loi, toute sentence arbitrale, toute coutume, ou tout accord entre les employeurs et les travailleurs qui assure des conditions plus favorables que celles prévues par la présente convention.
